STATEMENT OF CONSIDERATION RELATING TO
401 KAR 10:026 Amended after comments
401 KAR 10:029 Amended after comments
401 KAR 10:030 Amended after comments
401 KAR 10:031 Amended after comments

Energy and Environment Cabinet
Department for Environmental Protection
Division of Water

I A public hearing on 401 KAR 10:001, 10:026, 10:029, 10:030, and 10:031 was held on July 23, 2008, at 6:30 p.m. at the Capitol Annex in Room 149, Frankfort, Kentucky.

II The following people attended this public hearing or submitted written or oral comments:

Attended the public hearing:

Name and Title	**Affiliation**
Betsy Bennett, Conservation Chair	Sierra Club
Joanne Benante	US EPA
Andrea Zimmer	US EPA
Lloyd Cress, Attorney	
Sara Smith, President	Smith Management Group
Ronald Van Stockum, Jr., Attorney	
Kelly Bartley, Attorney	Greenbaum, Doll, and McDonald
Hank Graddy, Project Director	Kentucky River Watershed Watch
Eve Zimmerman	US EPA
Jason Flickner, Program Director	Kentucky Waterways Alliance
Gene Harrison, Compliance Assistance	Division of Compliance Assistance
Terry Anderson	
Judith Petersen, Executive Director	Kentucky Waterways Alliance
Hugh Archer, Board Member	Kentucky Waterways Alliance
Arnita Gadson, Executive Director	Environmental Quality Commission
Johnna McHugh, Director of Operations	Environmental Quality Commission
Steve Manning, Environmental Counsel	Paducah Remediation Services, LLC
Brenda Jones, Environmental Assoc. Counsel	Paducah Remediation Services, LLC

Submitted oral or written comments regarding the administrative regulation:

Name and Title	Affiliation
Adam P. Barr	
Joanne Benante, Water Management Division Chief	United State Environmental Protection Agency (US EPA)
Jack C. Bender, Attorney	Greenebaum Doll and McDonald, PLLC
Betsy Bennett, Conservation Chairperson	Sierra Club, Cumberland Chapter
Beth Bissinger	
Bill K. Caylor, President	Kentucky Coal Association
Kelly Craig	
Lloyd R. Cress, Jr.	Kentucky Association of Manufacturers, Chemical Industry Council (KAM/CIC)
Erin L. Crowley	
Lisa Dettinger	
Mark Dopp, General Counsel	American Meat Institute
Donald S. Dott, Director	Kentucky State Nature Preserves Commission
Amanda Dreckman	
Michael Eirich, Operations Manager	City of Berea
Albert Ettinger, Counsel	Environmental Law & Policy Center of the Midwest
Tab Farthing, President	Hall Environmental Consultants, LLC
Tom FitzGerald, Director	Kentucky Resources Council
Hank Graddy, Chair	Kentucky Watershed Watch
Timothy J. Hagerty, KY Chamber Environmental Policy Committee Chair	Kentucky Chamber of Commerce, Greater Louisville, Inc., and Commerce Lexington (The Chambers)
Emily Harkenrider, Analyst	Legislative Research Commission
Gill Holland	Gallery NuLu
Renee Victoria Hoyos, Executive Director	Tennessee Clean Water Network

Murray Johnson	
Laura M. Knoth, Public Affairs Director	Kentucky Farm Bureau Federation
Ross Kreutzjans	Legacy Management
Sylvia L. Lovely, Executive Director/CEO	Kentucky League of Cities
John Martin	Hopkinsville Water Environment Authority
Wallace McMullen	
Gene Nettles	
Jerome E. Perez, Forest Supervisor	USDA, Forest Service, Daniel Boone National Forest
Judith Petersen, Executive Director	Kentucky Waterways Alliance
Anda A. Ray, Vice President	Tennessee Valley Authority
Bruce Scott, Board President	Kentucky Waterways Alliance
Tom Shaw	Western Kentucky Energy
Jane Sparkman	
Nancy Sullivan	
John Toebben, President	Toebben Builders
A.W. Turner, Jr., Corporate Counsel	Kentucky American Water
Richard Ullrich	
Jane Marie Watts, Director	Kentucky Heartwood
Mark With	
Jonathan Zimmerman, Environmental Coordinator	Sara Lee Foods

III The following people from the promulgating administrative body attended this public hearing or responded to the written comments:

Name and Title	**Affiliation**
R. Bruce Scott, Commissioner	Department for Environmental Protection
Sandy Gruzesky, Director	Division of Water
Tom VanArsdall, Branch Manager	Division of Water
Randy Payne, Environmental Scientist	Division of Water
Ron Price, Branch Manager	Division of Water
Abby Powell, Regulations Coordinator	Division of Water

IV Summary of Comments and Responses for 401 KAR 10:026, 10:029, 10:030, and 10:031. The following comments and responses are grouped by administrative regulation. General comments related to the entire package are listed first, then comments specific to 401 AKR 10:026, 10:029, 10:030, and 10:031.

(1) Subject Matter: Technical Amendments

(a) Comment: Emily Harkenrider (Legislative Research Commission)
Ms. Harkenrider suggested several technical amendments to the regulation, including formatting, grammar, and drafting suggestions.

(b) Response: The agency agrees and has made the suggested changes.

(2) Subject Matter: General Caution

(a) Comment: Lloyd R. Cress, Jr. (KAM/CIC), Jack C. Bender (Greenebaum Doll & McDonald, PLLC), Bill K. Caylor (Kentucky Coal Association)
The Division in not required to make changes to water quality standards during its triennial review. The Division's last revision was approved by the US EPA in full. KAM/CICI believes that the Division should be cautious in making changes to its previously approved regulations.

(b) Response: The agency acknowledges your concerns and agrees that changes to water quality standards should be carefully considered and the implications evaluated prior to finalizing revisions to the regulations. States are required by Section 303(c) of the Clean Water Act to triennially review their water quality standards. Invariably, there will be updates to criteria and waters based on more recent information, corrections and clarifications, and other revisions to the regulations that a state will wish to make to strengthen and improve the regulations.

Although the agency did engage numerous stakeholders in discussion about proposed revisions prior to filing the regulation package, the regulatory development process is a necessary component of receiving all the information that the agency should consider when evaluating revisions to regulations. While the agency is not required to make revisions to regulations, the intent of the triennial review process is to identify if it is appropriate to make revisions. The agency has identified certain revisions that are appropriate to make. Additionally, the public process has provided information regarding proposed revisions that the agency has determined are not appropriate to proceed with and which the agency is changing in the final regulations.

(3) Subject Matter: Limited public participation

(a) Comment: Judith Petersen (Kentucky Waterways Alliance), Betsy Bennett (Sierra Club), Tom FitzGerald (Kentucky Resources Council, Inc.), Bruce Scott (Kentucky Waterways Alliance), Albert Ettinger (Environmental Law & Policy Center of the Midwest)
The Division did very little public outreach or publicity to alert the general public that these regulations were open for comment. This limited outreach and publicity combined with the continued refusal of the Division to allow more than 30 days for comments or to host more than one public hearing has certainly served to limit public comment. The

Division does not seem to have sought public comment or coordination with other state or federal agencies.

(b) **Response:** The agency had discussions over a period of more than a year prior to the filing of these proposed regulations, with many interested parties that have had a history of participating in the water quality standards review process. These included KWA, Sierra Club, KY Coal Association, KY League of Cities, Kentucky Association of Manufacturers, Agriculture Water Quality Authority, and the Calvert City Environmental Consortium. The agency met on three occasions with the KWA and provided them a preliminary draft of the regulations in advance of being published in the Kentucky Administrative Register (as the agency did for several other interested parties upon request). In addition, the agency released a press release in June 2008 regarding the upcoming proposal to categorize five new waters as Outstanding National Resource Waters. The agency mailed and e-mailed the announcement to approximately 400 individuals and agencies in June 2008. Finally, the agency presented to the Chambers of Commerce Environmental Forum, two public meetings of the Environmental Quality Commission, and the ORSANCO Commission/Technical Committee meeting in June. At these meetings the schedule of the regulation process was laid out. In addition, the notice was on the agency's web site starting June 13, 2008, and it also appeared on LRC's web site beginning July 1, 2008.

Even with this, the agency agrees that more could always be done to advertise the comment period both through the press and our web site and that more and better coordination could be made with other state and federal agencies. The agency will take steps to ensure that this part of the triennial review process is further improved in the future.

The 30-day public comment period is established in KRS 13A.270. Also in KRS 13A.280 the requirement to respond to comments, and submit revised regulations as a result of public comment, within 45 days after the close of public comment period.

(4) **Subject Matter: 10:026, Oppose additional Outstanding State Resource Waters**

(a) **Comment: Lloyd R. Cress, Jr. (KAM/CIC), Bill K. Caylor (Kentucky Coal Association)**

The proposal seeks to designate many stream segments as outstanding state resource waters due to their categorization as exceptional waters under 401 KAR 10:030, subjecting them to more stringent requirements, including the criterion for dissolved oxygen. The Division's proposal blurs the carefully negotiated lines between a use designation and an antidegradation categorization. The Division's proposal would utilize the OSRW use designation as a regulatory vehicle to provide additional protection to all waters having excellent biological conditions without regard to the presence of threatened or endangered species. The development of regulatory requirements necessary to protect excellent biological conditions would be far more open-ended than the development of requirements necessary to protect a single threatened or endangered species. The Division should provide scientifically detailed, specific information to support any proposed changes in use designations, including the large numbers of waters proposed for OSRW designation. The commenters do not support the wholesale inclusion of waters

categorized as exceptional waters for antidegradation purposes in the outstanding state resource water use designation.

(b) **Response:** The agency received comments on the issue of adding 233 waters to the OSRW use in 10:026. Although USEPA doesn't require a tiered approach to aquatic life use, it is promoting the concept and has developed guidance for states to use in implementing this approach. The agency and other agencies (Kentucky Department for Fish and Wildlife Resources, Kentucky State Nature Preserves Commission, U.S. Fish and Wildlife Service) have searched diligently for more than thirty years to identify the state's best waters. The excellent biological communities exhibited by the 233 Exceptional waters in 10:030 that are being proposed to be added to the OSRW use in 10:026 qualify under criteria for OSRW in 10:031 Section 8(1). Of approximately 90,000 miles of rivers and streams in Kentucky, the cabinet is proposing to add about 1500 miles (less than 2%) of these best waters to the OSRW category. Attachment 1 lists these waters and provides summary biological indices indicating the qualities that make these waters exceptional/outstanding. Further information, such as raw data, can be obtained by request from the agency.

(5) **Subject Matter: 10:026, Support addition of 233 Outstanding State Resource Waters**

(a) **Comment: Joanne Benante (United States EPA), Sylvia L. Lovely (Kentucky League of Cities), Donald S. Dott, Jr. (Kentucky State Nature Preserves Commission), Judith Peterson (Kentucky Waterways Alliance), Betsy Bennett (Sierra Club), Tom FitzGerald (Kentucky Resources Council, Inc.), Bruce Scott (Kentucky Waterways Alliance), Albert Ettinger (Environmental Law & Policy Center of the Midwest)**
The commenters strongly support the Division's proposal to add 233 waters to Outstanding State Resource Water use designation.

(b) **Response:** The agency acknowledges the comment. Please see the agency's response to comment (4) in this statement of consideration (SOC).

(6) **Subject Matter: 10:026, Extend the OSRW protections**

(a) **Comment: Donald S. Dott, Jr. (Kentucky State Nature Preserves Commission), Judith Peterson (Kentucky Waterways Alliance), Betsy Bennett (Sierra Club), Tom FitzGerald (Kentucky Resources Council, Inc.), Bruce Scott (Kentucky Waterways Alliance), Albert Ettinger (Environmental Law & Policy Center of the Midwest)**
The cabinet should immediately provide simultaneous OSRW and Exceptional designation protection to any water identified as possessing, or having the potential to possess, threatened and endangered species populations or providing exceptional recreational and aquatic life resources and not delay until the next Triennial Review to designate.

(b) **Response:** When a population of a federally threatened or endangered species is confirmed, the agency immediately takes that into account in its regulatory programs. The automatic inclusion of these waters is authorized by 10:031 Section 8(1)(a)4. The agency also will update its web site, http://www.water.ky.gov/sw/specialwaters/, to indicate these findings. These waters will also be proposed as "exceptional waters" in the revisions to water quality standards revisions only if they exhibit the qualities outlined in 10:030 Section 1(2)(a).

(7) Subject Matter: 10:026, Support the use designation modified warm water aquatic habitat

(a) Comment: Lloyd R. Cress, Jr. (KAM/CIC)
KAM/CIC supports a tiered approach that recognizes the effects of man-induced changes in the watershed.

(b) Response: Although we acknowledge the comment, based on comments received by the agency regarding the proposed Modified Warm Water Aquatic Habitat use, the agency has decided to eliminate this proposed lower tier use. It will be reconsidered in the next triennial review in the context of other changes to water quality standards regulations that may re-focus attention on a tiered aquatic life use concept.

(8) Subject Matter: 10:026, Oppose the designation modified warm water aquatic habitat

(a) Comment: Timothy J. Hagerty (The Chambers), Sylvia L. Lovely (Kentucky League of Cities), Tom FitzGerald (Kentucky Resources Council, Inc.), Hank Graddy (Watershed Watch in Kentucky), Bill K. Caylor (Kentucky Coal Association)
The commenters acknowledge that a tiered approach to WAH designations may be positive in concept, allowing for the recognition of variations in existing water quality among WAH waters. However, considering the uncertainties regarding how this category would apply to the streams in Kentucky, such a significant change in the regulatory structure governing use designations and water quality standards is neither necessary nor prudent at this time. The commenters recommend that the Division of Water retain the existing use designation structure and conduct a more exhaustive, stakeholder-based examination of any proposed change before implementing a tiered approach to the WAH use designation.

(b) Response: The agency has decided to eliminate this proposed lower tier use. Please see the agency's response to comment (7) in this SOC.

(9) Subject Matter:10:026, Modified warm water aquatic habitat needs justification

(a) Comment: Judith Petersen (Kentucky Waterways Alliance), Betsy Bennett (Sierra Club), Tom FitzGerald (Kentucky Resources Council, Inc.), Bruce Scott (Kentucky Waterways Alliance), Albert Ettinger (Environmental Law & Policy Center of the Midwest), Renee Victoria Hoyos (Tennessee Clean Water Network), Jerome E. Perez (Daniel Boone National Forest), Gene Nettles, Betty Bissinger, Adam P. Barr, Kelly Craig, Erin L. Crowly, Lisa Dettlinger, Amanda Dreckman, Gill Holland (Gallery NuLu), Murray Johnson, Wallace McMullen, Jane Sparkman, Nancy Sullivan, Richard Ullrich, Jane Marie Watts (Kentucky Heartwood), Mark With
Creation of a new subcategory within the "warm water aquatic habitat" category constitutes an impermissible downgrading of those streams currently designated as WAH that might be included in the category, without the application of the rigorous requirements of the water quality standards, including the conducting of a use attainability analysis and satisfaction of one of the criteria. For any stream that meets or is capable of meeting WAH criteria through rigorous application of effluent-based and water quality based criteria on point and nonpoint sources, unless irretrievable changes

have occurred which would preclude achievement of attainment of the WAH standards, reclassification to the new category is an unlawful downgrading.

We believe that some of the models of tiered aquatic life uses appear to be flawed from an environmental policy standpoint, and are probably inconsistent with EPA regulations governing designation of waters for uses less protective than those articulated in the "fishable" goal. A "tiered" aquatic life use scheme is not acceptable if it allows or encourages assigning waterbodies "less than Section 101(a)(2)" aquatic life uses (such as giving the water body a "limited aquatic life"), without having done an rigorous analysis of the potential of the water body that is currently not fully supporting such uses to be restored sufficiently to support such uses. It is not sufficient under the Clean Water Act or the EPA regulations to assign less than a 101(a)(2) aquatic life use because the water body is not currently capable of fully supporting a community of aquatic life consistent with the goals of the CWA unless it has also been shown that it cannot be restored to support such uses. For this, a thorough evaluation of the technical and economic feasibility of restoring damaged physical habitat (stream channels and banks, riparian zones, etc) is necessary. See 40 CFR 131.10(j)(1).

Any waterbody assigned a MWAH use must have an approved state and USEPA Use Attainability Analysis (UAA) that meets the requirements set forth in 40 CFR 131.10 (g) (1) – (6) and 40 CFR 131.10 (h) (1) – (2). The UAA must be public noticed and available for public comment.

(b) **Response:** The agency has decided to eliminate this proposed lower tier use. Please see the agency's response to comment (7) in this SOC.

(10) **Subject Matter: 10:026, "And reasonable" best management practices**

(a) **Comment: Laura M. Knoth (Kentucky Farm Bureau Federation)**
Section 2(3) deletes the term "and reasonable." Why would this term be deleted when the attempt is to allow a surface water to remain in its existing use designation by using effective "and reasonable" best management practices to address a problem?

(b) **Response:** Including the term "reasonable" in the regulation language introduces an ambiguous term, which is prohibited by KRS 13A.222(4)(a). "Best management practices" is defined in 401 KAR 10:001, and it has been further clarified for agriculture operations in the amended after comments 401 KAR 10:001, which points to the statutory definition for best management practices.

(11) **Subject Matter: 10:026, Support Table B**

(a) **Comment: Jack C. Bender (Greenebaum Doll & McDonald, PLLC)**
The addition of Table B listing specific surface water intakes for domestic water supply use is a useful clarification of the regulations and should be retained in the final version.

(b) **Response:** The agency acknowledges the comment.

(12) **Subject Matter: 10:026, Verify river miles for Table B**

(a) **Comment: Judith Petersen (Kentucky Waterways Alliance), Betsy Bennett (Sierra Club), Tom FitzGerald (Kentucky Resources Council, Inc.), Bruce Scott (Kentucky**

Waterways Alliance), Albert Ettinger (Environmental Law & Policy Center of the Midwest)
The Cabinet should verify the accuracy of the river miles associated with each intake since the proposed Table B is impossible for the public to compare to the existing regulations.

(b) **Response**: The agency has verified and made any necessary changes to those mile points per NHD 1:24,000 data. The purpose for Table B is to make it clear where DWS criteria are implemented, rather than the ambiguity of not denoting those specific withdrawal intakes. The agency received comments from drinking water utilities on specifics of Table B (10:26, Section 5) (Please see responses to those comments under the four "Subject Matter" topics below).

(13) Subject Matter: 10:026, Table B, Berea College Water Utility

(a) Comment: Michael Eirich (City of Berea)
Mr. Eirich suggests a change Table B. "Berea College Water Utility" should be "Berea Municipal Utilities" in Madison County.

(b) Response: The agency has made the change in the revised regulation.

(14) Subject Matter: 10:026, Table B, HWEA

(a) Comment: John Martin (Hopkinsville Water Environment Authority)
In Section 5, Table B should include Hopkinsville Water Environment Authority's new Lake Barkley Intake. It should be listed with the intakes in the Lower Cumberland River Basin as: HWEA, Mile 14.6 of Little River in Trigg County.

(b) Response: The agency has made the change in the revised regulation.

(15) Subject Matter: 10:026, Table B, Kentucky American Water

(a) Comment: A.W. Turner, Jr. (Kentucky American Water)
Table B is incomplete. In addition to the Kentucky River sources included in the table, KAW also has an intake on Lake Ellerslie in Lexington. KAW is also constructing a new intake facility at Pool 3 of the Kentucky River near Monterey Kentucky, but that plant is not expected to be operational until 2010.

(b) Response: This reservoir ("Lake Ellerslie") is synonymous with "Reservoir No 1" (West Hickman Creek), thus named on USGS 1:24,000 topographic quadrangles (Lexington East). The agency has added this source water to Table B, 10:026, Section 5.

(16) Subject Matter: 10:026, Table B, Henderson Water & Sewer

(a) Comment: Tom Shaw (Western Kentucky Energy)
The listing for Henderson Water and Sewer Department shows the intake to be an unnamed tributary at mile 0.6 to Grane Creek. If this location is near mile 41.35 on the Green River, the creek upstream is Groves Creek.

(b) Response: The intake for Henderson Utilities/South is located on Green River, river mile 41.3. This change has been made to Table B, 10:26, Section 5.

(17) Subject Matter: 10:026, Protect all surface waters with DWS criteria

(a) Comment: Judith Petersen (Kentucky Waterways Alliance), Betsy Bennett (Sierra Club), Tom FitzGerald (Kentucky Resources Council, Inc.), Bruce Scott (Kentucky

Waterways Alliance), Albert Ettinger (Environmental Law & Policy Center of the Midwest), Renee Victoria Hoyos (Tennessee Clean Water Network), Jerome E. Perez (Daniel Boone National Forest), Gene Nettles, Betty Bissinger, Adam P. Barr, Kelly Craig, Erin L. Crowly, Lisa Dettlinger, Amanda Dreckman, Gill Holland (Gallery NuLu), Murray Johnson, Wallace McMullen, Jane Sparkman, Nancy Sullivan, Richard Ullrich, Jane Marie Watts (Kentucky Heartwood), Mark With

The Cabinet should ultimately be protecting all surface waters of the Commonwealth for DWS criteria unless a UAA has been approved by USEPA to downgrade the DWS use. We are concerned about the way in which KDOW limits the application for the DWS use to 5 miles upstream of the current public water intake. Particularly in a drought year like 2007 we can see that protecting the water supply use is critically important as Kentucky communities grow and need to develop new or alternative sources of water. If the current water quality (instream) is sufficient to support a DWS use then KDOW should protect this existing use by designating all Kentucky waters that are eligible for DWS – as DWS. This will help assure protection of human health drinking water uses for Kentucky's future.

(b) **Response:** The agency has historically applied domestic water supply criteria at the intake for DWS use, and new intakes receive the same protection. We believe this provides adequate protection because of the compliance of drinking water utilities with Safe Drinking Water Act criteria for finished water.

(18) Subject Matter: 10:026, Apply DWS criteria for 5 miles upstream

(a) Comment: Judith Petersen (Kentucky Waterways Alliance), Betsy Bennett (Sierra Club), Tom FitzGerald (Kentucky Resources Council, Inc.), Bruce Scott (Kentucky Waterways Alliance), Albert Ettinger (Environmental Law & Policy Center of the Midwest)

The Cabinet should, at a minimum, define DWS criteria as applicable five (5) miles upstream of public water supply intakes.

(b) **Response:** Please see Response (17). In addition, permitted discharges upstream of a DWS intake must comply with DWS use criteria at the nearest downstream water source (i.e. the criteria are met upstream of the surface intakes).

(19) Subject Matter: 10:026, Oppose to removing DWS use designations from Table C

(a) Comment: Judith Petersen (Kentucky Waterways Alliance), Betsy Bennett (Sierra Club), Tom FitzGerald (Kentucky Resources Council, Inc.), Bruce Scott (Kentucky Waterways Alliance), Albert Ettinger (Environmental Law & Policy Center of the Midwest)

All DWS use designations were deleted from Table C: Surface Water Use Designations. This is very confusing for the general public and more than a little misleading for surface waters that are still listed in the table to have all uses except DWS listed.

(b) **Response:** The regulation has been revised to indicate that DWS use applies to waters listed in Table C.

(20) Subject Matter: 10:026, Removing some waters from Table C

(a) Comment: Joanne Benante (United States EPA)

The current Surface Water Use Designations in Section 5(2) were compared to the new Table C in Section 5(3). Several of the water bodies that are currently designated with the DWS or OSRW uses are not designated for those uses in the new Table C. Based on our discussions with staff with DOW, we understand that the proposed draft revisions to Table C were intended to provide clarity to the applicable uses rather than removing the uses for any water. If the Commonwealth were to remove a designated use, the Commonwealth would have to provide supporting documentation which meets the requirements of the regulations as specified in 40 CFR 131.

(b) Response: All waters in the commonwealth where DWS criteria apply are named and mile point of withdrawal provided in Table B, 401 KAR 10:26, Section 5. All water bodies and segments listed in Table C have been reviewed to assure all designated uses are noted.

(21) Subject Matter: 10:026, Change of Zone descriptions in Table C

(a) Comment: Joanne Benante (United States EPA)

US EPA understands that the proposed revisions to the description of the "zone" is intended to provide clarification regarding the location of the water bodies rather than remove any protection provided the division's current water quality standards. As part of the Commonwealth's final submission of its revised water quality standards, US EPA suggests clarification that there are no segments of portions of segments for which the revisions to the "zone" description results in changes to the applicable designated uses.

(b) Response: A review of Table C in 401 KAR 10:026 Section 5 and all necessary changes needed to provide accurate water body and segment listing for those "exceptional waters" have been made.

(22) Subject Matter: 10:026, Verify river miles in Table C

(a) Comment: Judith Petersen (Kentucky Waterways Alliance), Betsy Bennett (Sierra Club), Tom FitzGerald (Kentucky Resources Council, Inc.), Bruce Scott (Kentucky Waterways Alliance), Albert Ettinger (Environmental Law & Policy Center of the Midwest)

The cabinet should verify the proposed NHD river miles, listed in Section 5(3) Table C, are accurate to guarantee no net stream mile loss of Cold Water Aquatic Habitat and OSRW protected waters.

(b) Response: Changes reflect 1:24,000 scale NHD river miles and have been verified to accurately reflect same coverage for those previously defined water bodies and segments. All new "exceptional waters" by practice are defined per 1:24,000 scale NHD mile points.

(23) Subject Matter: 10:026, Table C Omission, Stony Fork of Bennetts Fork

(a) Comment: Judith Petersen (Kentucky Waterways Alliance), Betsy Bennett (Sierra Club), Tom FitzGerald (Kentucky Resources Council, Inc.), Bruce Scott (Kentucky Waterways Alliance), Albert Ettinger (Environmental Law & Policy Center of the Midwest)

The commenters seek clarification from the Division on the status and classification of the Stony Fork of Bennetts Fork, Basin above river mile 2.2, Bell County. They object to the removal of the OSRW use because other streams in the same basin provide habitat and known populations of *Phoxinus Cumberlandensis*.

(b) **Response:** Stony Fork of Bennetts Fork was listed erroneously through misidentification of *Phoxinus cumberlandensis* by another agency. A later study was conducted by a consultant on behalf of a coal company and found that *Rhinichthyes atratulus* (blacknose dace) was misidentified as *P. cumberlandensis* (blackside dace). This survey was done with Kentucky Fish and Wildlife biologists present. It was confirmed that blacknose dace were misidentified as blackside dace. The blackside dace was not found.

(24) Subject Matter: 10:026, Table C Omission, Bennetts Fork of Yellow Creek and Big South Fork of Cumberland River

(a) Comment: Donald S. Dott, Jr. (Kentucky State Nature Preserves Commission), Judith Petersen (Kentucky Waterways Alliance), Betsy Bennett (Sierra Club), Tom FitzGerald (Kentucky Resources Council, Inc.), Bruce Scott (Kentucky Waterways Alliance), Albert Ettinger (Environmental Law & Policy Center of the Midwest)
The Kentucky State Nature Preserves Commission believes that two stream segments were omitted from the list of outstanding state resource waters. (1) Bennetts Fork of Yellow Creek, Basin above River Mile 5.0, Bell County: request a follow up to confirm the presence of fish. (2) Big South Fork of Cumberland River, River Mile 55.2 to 45.0, McCreary County: This stream segment contains at least 4 federally listed mussels.

(b) **Response:** Bennetts Fork of Yellow Creek Bypass was listed erroneously though misidentification of *Phoxinus cumberlandensis* by another agency. A later study was conducted by a consultant on behalf of a coal company and found that *Rhinichthyes atratulus* (blacknose dace) was misidentified as *P. cumberlandensis* (blackside dace). This survey was done with Kentucky Fish and Wildlife biologists present. It was confirmed that blacknose dace were misidentified as blackside dace. The blackside dace was not found.

"Big South Fork of Cumberland River" was not omitted, rather the name was changed to "South Fork of Cumberland River" to be consistent with USGS/GNIS naming authority of streams.

(25) Subject Matter: 10:026, UAA for the Unidentified Tributary of (Blue) Spring Ditch

(a) Comment: Joanne Benante (United States EPA), Judith Petersen (Kentucky Waterways Alliance), Betsy Bennett (Sierra Club), Tom FitzGerald (Kentucky Resources Council, Inc.), Bruce Scott (Kentucky Waterways Alliance), Albert Ettinger (Environmental Law & Policy Center of the Midwest)
The Cabinet should produce a USEPA approved Use Attainability Analysis (UAA), and any other justification required by 40 CFR 131, for the Unidentified Tributary of (Blue) Spring Ditch prior to being designated as MWAH. The Commonwealth's regulations in Section 2, 3, and 4 of 401 KAR 10:026 describe certain requirements for redesignation of surface water uses. EPA requests the Commonwealth confirm that the Unidentified Tributary of (Blue) Spring Ditch is being designated in accordance with those requirements.

(b) **Response:** The UAA information is no longer necessary because the agency is withdrawing the proposal to add the MWH use and the unidentified tributary to Blue Spring Ditch. Also, please see the agency's response to comment (7) in this SOC.

(26) Subject Matter: 10:026, Table C Omission, Cawood Branch

(a) Comment: Judith Petersen (Kentucky Waterways Alliance), Betsy Bennett (Sierra Club), Tom FitzGerald (Kentucky Resources Council, Inc.), Bruce Scott (Kentucky Waterways Alliance), Albert Ettinger (Environmental Law & Policy Center of the Midwest)

We are concerned that in 401 KAR 10:030 Section 1(2) Table 2, Surface Waters Categorized as Exceptional Water, Cawood Branch in the Kentucky Basin, Mouth to Headwater, River Miles 0.0 – 2.1, in Leslie County has not been listed in 401 KAR 10:026 as an Outstanding State Resource Water and has not been included in the new 401 KAR 10:030 Section 1(2) Table 2, Surface Waters Categorized as Exceptional. Please provide justification for this omission.

(b) **Response:** The "exceptional water" is an UT of Cawood Branch (0.0 – 2.1), per 401 KAR 10:030 currently in-force and it is in the agency's list of waters for inclusion in 401 KAR 10:026 Section 5, Table C.

(27) Subject Matter: 10:026, Table C Omission, UT of Rock Creek

(a) Comment: Judith Petersen (Kentucky Waterways Alliance), Betsy Bennett (Sierra Club), Tom FitzGerald (Kentucky Resources Council, Inc.), Bruce Scott (Kentucky Waterways Alliance), Albert Ettinger (Environmental Law & Policy Center of the Midwest)

In 401 KAR 10:030 Section 1(2) Table 2, Surface Waters Categorized as Exceptional Water, an Unidentified Tributary of Rock Creek in the Upper Cumberland Basin, Mouth to Headwater, River Miles 0.0 – 1.9, in McCreary County has not been listed in 401 KAR 10:026 as an Outstanding State Resource Water. Please provide justification for this omission.

(b) **Response:** This UT of Rock Creek is included in the agency's Table C, 401 KAR 10:26 Section 5. This is noted as an UT of Rock Creek discharging into Rock Creek at river mile 17.0.

(28) Subject Matter: 10:029, Broad goal of antidegradation policy

(a) Comment: Judith Petersen (Kentucky Waterways Alliance), Betsy Bennett (Sierra Club), Tom FitzGerald (Kentucky Resources Council, Inc.), Bruce Scott (Kentucky Waterways Alliance), Albert Ettinger (Environmental Law & Policy Center of the Midwest)

On Page 2, Line 4, the Cabinet proposes to change the antidegradation policy from a broad goal "to abate any existing pollution" of surface waters of the Commonwealth, to a more limited goal "to abate, *if applicable*, existing pollution." This qualification sends the wrong signals and is contrary to the objectives of the Clean Water Act. The federal antidegradation policy flows from the Clean Water Act's broad declaration of policy "to restore and maintain the chemical, physical, and biological integrity of the Nation's waters." 33 U.S.C. 1251(a). This statement of policy is written broadly and does not imply that the goals and objectives of the Act are only "applicable" in certain situations.

The implementation methodology at 401 KAR 10:030 will explain how the antidegradation policy is to be implemented and when the specific protections are "applicable." There is no need to qualify the broad policy objectives at 401 KAR 10:029 in the manner proposed.

(b) **Response:** The agency agrees that the meaning was somewhat changed by the proposed regulation and is eliminating the term "if applicable" in the revised regulation and returning to the currently effective regulation, except the term "any", which introduces an ambiguous term and is prohibited by KRS 13A.222(4)(a)..

(29) Subject Matter: 10:029, Water quality impairment associated with thermal discharge

(a) **Comment: Anda A. Ray (Tennessee Valley Authority)**

In Section 1(5), TVA suggests that for clarity, the phrase "successful demonstration conducted under Section 316 of the Clean Water Act. . ." should be changed to "successful demonstration conducted under Section 316**(a)** of the Clean Water Act . . ."

(b) **Response:** The agency concurs with this request and the change has been made in the revised regulation.

(30) Subject Matter: 10:029, Granting mixing zones

(a) **Comment: Judith Petersen (Kentucky Waterways Alliance), Betsy Bennett (Sierra Club), Tom FitzGerald (Kentucky Resources Council, Inc.), Bruce Scott (Kentucky Waterways Alliance), Albert Ettinger (Environmental Law & Policy Center of the Midwest)**

On Page 4, Line 3 and Line 13, the Cabinet proposes to change the language granting mixing zones or zones of initial dilution from may to shall. These changes appear to compel the Cabinet to grant variances of water quality criteria rather than make the granting of such a variance subject to Cabinet review and discretion. Nothing in the CWA or implementing regulations require granting any discharge permit a mixing zone where chronic criteria are exceeded, or a zone of initial dilution (ZID) where acute criteria are exceed. The granting of such variances should occur only under very limited circumstances, when the permitee has provided sufficient information to justify granting the variance, and only when modeling has shown the assigned mixing zone or ZID will not impair downstream uses. Also, the mixing zone should be limited to the smallest area possible and should not block passage of aquatic life. The Cabinet should review each permit application at renewal and should aggressively require compliance schedules to remove previously permitted mixing zones or ZIDs.

(b) **Response:** 401 KAR 10:029 Section 4(1)(a) and 4(5) require the cabinet, when granting mixing zones, to establish size limitations and volumes of a mixing zone. The cabinet must take into consideration the location of nearby mixing zones, spawning and nursery areas, migration routes, public water supply intakes, and bathing areas. 401 KAR 10:029 Section 4(6) and 4(7) limit the maximum mixing zone size to 1/3 of the width of a stream and 1/10 the width of a lake. 401 KAR 10:029 Section 4(1)(b) precludes the use of the dilution provided by a mixing zone until such applicable limitations are assigned. Implementation of these requirements shall be achieved in the KPDES permits. Also, please see the agency's response to comment (31) in this SOC.

(31) Subject Matter: 10:029, New standards for mixing zones impose economic burden

(a) Comment: Ross Kreutzjans (Legacy Management)

The proposed revision to 401 KAR 10:029 Section 4 that delineates criteria for authorizing mixing zones will impose too great a cost on the regulated community.

(b) Response: The agency regrets that the language revisions in 401 KAR 10:029 Section 4(1) were not clear. Mixing zones will be granted by the agency, where appropriate, upon request by the applicant.

(32) Subject Matter: 10:029, Prohibition against new ZIDs in Exceptional Waters

(a) Comment: Judith Petersen (Kentucky Waterways Alliance), Betsy Bennett (Sierra Club), Tom FitzGerald (Kentucky Resources Council, Inc.), Bruce Scott (Kentucky Waterways Alliance), Albert Ettinger (Environmental Law & Policy Center of the Midwest)

KWA supports the prohibition against new ZIDs in Exceptional Waters. (page 5) This prohibition on new ZIDs should be extended to all OSRW use waters.

(b) Response: Any existing ZIDs permitted in OSRWs have instream biological monitoring and whole effluent toxicity limits in order to provide an additional measure of protection and assurance that the biological health of the waters is not affected.

(33) Subject Matter: 10:029, Consistent dates

(a) Comment: Judith Petersen (Kentucky Waterways Alliance), Betsy Bennett (Sierra Club), Tom FitzGerald (Kentucky Resources Council, Inc.), Bruce Scott (Kentucky Waterways Alliance), Albert Ettinger (Environmental Law & Policy Center of the Midwest)

On Page 5, Line 1 the Cabinet should establish a consistent date for the "effective date of this administrative regulation". Both December 8, 1999 and December 12, 1999 are cited throughout the proposed regulations.

(b) Response: The dates reflect when the regulations went into effect for those provisions. We could not find any cases where December 12, 1999 was used in this regulation.

(34) Subject Matter: 10:029, Mixing zones for bioaccumlative chemicals of concern

(a) Comment: Judith Petersen (Kentucky Waterways Alliance), Betsy Bennett (Sierra Club), Tom FitzGerald (Kentucky Resources Council, Inc.), Bruce Scott (Kentucky Waterways Alliance), Albert Ettinger (Environmental Law & Policy Center of the Midwest)

KWA supports the prohibition of any mixing zones for Bioaccumlative Chemicals of Concern (BCC) unless assigned prior to September 8, 2004. Likewise we support the required elimination of all such previously assigned mixing zones for BCCs no later than September 8, 2010. We urge the Cabinet to phase these mixing zones out as quickly as possible by requiring aggressive compliance schedules with all permitees previously granted such a variance.

(b) Response: The agency acknowledges the comments. However, the existing mixing zones are not variances as they are allowed by state and federal regulations.

(35) Subject Matter: 10:029, Agricultural best management practices

(a) Comment: Laura M. Knoth, Kentucky Farm Bureau Federation

Section 1(2)(c) refers to nonpoint sources of pollutants and the use of best management practices. Language should be added to this section clearly stating that agriculture and silviculture nonpoint source issues will be addressed according to the Agriculture Water Quality Act using best management practices as defined by the statute.

(b) Response: The definition of best management practices has been changed in 10:001 to address this comment. Please see the agency's response to comments (6) and (7) in the SOC for 401 KAR 10:001.

(36) Subject Matter: 10:029, Limiting mixing zones to non-conventional pollutants

(a) Comment: Lloyd R. Cress, Jr. (KAM/CIC), Jack C. Bender (Greenebaum Doll & McDonald, PLLC), Timothy J. Hagerty (The Chambers)

The Division proposes to limit the availability of mixing zones to non-conventional pollutants, as defined in the regulations. There is not scientific or regulatory basis of this restriction. US EPA guidance is clear that mixing zones may be available for conventional, non-conventional, and toxic pollutants. The commenters urge the Division to revise the new introductory language in Section 4(1) to read "Upon request by the applicant for mixing zones . . ." This results in the deletion of any reference to a particular type of pollutant for which the mixing zone is sought.

(b) Response: Please see the agency's response to comment (31) in this SOC.

(37) Subject Matter: 10:029, Initial dilution and high velocity discharge

(a) Comment: Lloyd R. Cress, Jr. (KAM/CIC), Jack C. Bender (Greenebaum Doll & McDonald, PLLC), Timothy J. Hagerty (The Chambers)

The Division proposes to limit zones of initial dilution to submerged high-rate multiport outfall structures with a velocity greater than or equal to three meters per second. This proposal is not consistent with US EPA technical guidance, which states that a high velocity discharge of three meters per second through a discharge pipe is only one alternative for protecting in-stream water quality. The Division should remove this limitation from the proposed regulation.

(b) Response: Based on comments received regarding the proposed revisions in Section 4, the agency has decided to withdraw the proposed revisions pertaining to three meters per second in Section 4(4) and the proposed residence time provisions in zones of initial dilution contained in Section 4(4)(a) and in mixing zones in Section 4(5)(d) and retain the previous regulatory language. The agency believes that it can implement its existing mixing zone provisions and provide protection to aquatic life with the previously existing language.

(38) Subject Matter: 10:029, Sizing mixing zones and zones of initial dilution based on one of four alternates given by EPA

(a) Comment: Lloyd R. Cress, Jr. (KAM/CIC), Jack C. Bender (Greenebaum Doll & McDonald, PLLC), Timothy J. Hagerty (The Chambers)

The Division proposes to restrict the availability of any zone of initial dilution to those circumstances where the residence time within the zone of initial dilution of drifting organisms does not exceed fifteen minutes. In addition the Division proposes to restrict

the availability of any mixing zone to those circumstances where the residence time within the mixing zone for drifting organisms does not exceed one hour. The Divisions proposal takes one of US EPA's four "recommended alternatives" and applies it across the board as an additional requirement to all mixing zones and zones of initial dilution. It is also unclear how the Division would evaluate compliance with this criterion. The Division should eliminate the blanket requirement that all mixing zones and zones of initial dilution be restricted based upon residence times of drifting organisms because it more stringent than the technical recommendations of the US EPA.

(b) Response: Please see the agency's response to comment (31) in this SOC.

(39) Subject Matter: 10:029, New requirements for existing mixing zones

(a) Comment: Lloyd R. Cress, Jr. (KAM/CIC), Timothy J. Hagerty (The Chambers)
Section 4(5) is written in such a manner that the requirement applies to all discharges. However other requirements in Section 4 contain a grandfather clause for certain existing discharges. The commenters urge the Division to include a clause in Section 4(5) making clear that the new requirements, if any, do not apply to existing mixing zones.

(b) Response: The proposed provision has been removed in the revised regulation and the agency will maintain the currently effective regulation. Please see the agency's response to comment (31) in this SOC.

(40) Subject Matter: 10:029, Regulatory Impact Analysis is deficient

(a) Comment: Jack C. Bender (Greenebaum Doll & McDonald, PLLC), Timothy J. Hagerty (The Chambers)
Although the proposed amendments would add additional new criteria for mixing zones and zones of initial dilution and eliminate the availability of such zones in establishing discharge limitations for conventional pollutants, the Regulatory Impact Analysis for the amendments only cites to a new requirement for a minimum discharge velocity for diffusers. It does not indicate that additional restrictions are being proposed on mixing zones and zones of initial dilution. Therefore, the Regulatory Impact Analysis is deficient. The Division has not supplied any estimate of costs for compliance with this provision.

(b) Response: The provisions have been removed in the revised regulation. Please see the agency's response to comment (31) in this SOC.

(41) Subject Matter: 10:030, Antidegradation policy implementation methodology for CAFOs

(a) Comment: Jack C. Bender (Greenebaum Doll & McDonald, PLLC)
The reference to "a no discharge to waters of the Commonwealth permit" for CAFOs is unclear in light of the definition of CAFO (RIA, pages 64-65)

(b) Response: An animal feeding operation that exceeds a threshold number of animals and has a discharge, or proposes to have a discharge, is required to apply for and obtain a permit under the Clean Water Act (see Waterkeeper Alliance, Inc. v EPA, 399 F.3rd 486 (2nd Cir. 2005)). However, because the Effluent Limitation Guideline (ELG) for the KPDES permit issued to such facility prohibits the discharge of process water from the animal production areas, except under abnormally heavy precipitation events, it functions essentially as a "no discharge" permit under normal operation. The Second Circuit ruling

in Waterkeeper Alliance, Inc. v EPA, 399 F.3rd 486 (2nd Cir. 2005) concluded that a concentrated animal feeding operation (CAFO) operating with no actual or proposed discharge has no duty to obtain a Clean Water Act permit. Therefore, these facilities would not be subject to an antidegradation review. For these reasons, the cabinet proposes to retain the current antidegradation implementation procedures that do not require CAFOs to conduct an antidegradation review.

(42) Subject Matter: 10:030, Support for antidegradation policy implementation methodology

(a) Comment: Laura M. Knoth (Kentucky Farm Bureau Federation)
The Kentucky Farm Bureau Federation supports the Division's decision to retain the current antidegradation implementation procedures that do not require CAFOs to be subject to antidegradation review.

(b) Response: The cabinet acknowledges the comment.

(43) Subject Matter: 10:030, Maps of designated waters

(a) Comment: Laura M. Knoth (Kentucky Farm Bureau Federation)
We strongly encourage the Division to provide detailed maps showing the location of the water bodies that have been designated as Outstanding National Resource Waters as well as Exceptional Waters. The public and regulated operations need to know where these resources are located in order to help in their protection. We believe these maps should have been made part of this regulation package in order to allow greater participation in review and comment.

(b) Response: The agency concurs that maps of the categories of waters are needed and is working on providing them in the near future. The maps will be available to the public in the near future on KYGEONET and the Division of Water's web site.

(44) Subject Matter: 10:030, Support additional "Outstanding National Resource Waters"

(a) Comment: Sylvia L. Lovely (Kentucky League of Cities), Donald S. Dott, Jr. (Kentucky State Nature Preserves Commission), Hank Graddy (Kentucky Watershed Watch), Judith Petersen (Kentucky Waterways Alliance), Betsy Bennett (Sierra Club), Tom FitzGerald (Kentucky Resources Council, Inc.), Bruce Scott (Kentucky Waterways Alliance), Albert Ettinger (Environmental Law & Policy Center of the Midwest), Renee Victoria Hoyos (Tennessee Clean Water Network), Jerome E. Perez (Daniel Boone National Forest), Gene Nettles, Betty Bissinger, Adam P. Barr, Kelly Craig, Erin L. Crowly, Lisa Dettlinger, Amanda Dreckman, Gill Holland (Gallery NuLu), Murray Johnson, Wallace McMullen, Jane Sparkman, Nancy Sullivan, Richard Ullrich, Jane Marie Watts (Kentucky Heartwood), Mark With
The commenters strongly support the addition of five waters to the Outstanding National Resource Water use designation.

(b) Response: The cabinet acknowledges the comment.

(45) Subject Matter: 10:030, Support additional "Exceptional Waters"

(a) Comment: Sylvia L. Lovely (Kentucky League of Cities), Hank Graddy (Kentucky Watershed Watch), Judith Petersen (Kentucky Waterways Alliance), Betsy Bennett (Sierra Club), Tom FitzGerald (Kentucky Resources Council, Inc.), Bruce Scott (Kentucky Waterways Alliance), Albert Ettinger (Environmental Law & Policy Center of the Midwest)

The commenters strongly support the addition of thirty-eight waters to the Exceptional Water use designation.

(b) Response: The cabinet acknowledges the comment.

(46) Subject Matter: 10:030, Suggest Additional Outstanding National Resource Water

(a) Comment: Donald S. Dott (Jr., Kentucky State Nature Preserves Commission)

Big South Fork of Cumberland River, RM 55.2 to RM45.0, McCreary County should be designated as an Outstanding National Resource Water because it contains at least four federally listed mussels.

(b) Response: South Fork of Cumberland River was moved in the listing of Outstanding State Resource Waters in 401 KAR 10:026 because the "Big" was deleted from the name. It still shows up as an OSRW because of federal threatened/endangered species. It also is listed as an Outstanding National Resource water in 401 KAR 10:030.

(47) Subject Matter: 10:030, Oppose the DOW approach to Antidegradation Implementation

(a) Comment: Hank Graddy (Kentucky Watershed Watch), Judith Petersen (Kentucky Waterways Alliance), Betsy Bennett (Sierra Club), Tom FitzGerald (Kentucky Resources Council, Inc.), Bruce Scott (Kentucky Waterways Alliance), Albert Ettinger (Environmental Law & Policy Center of the Midwest), Renee Victoria Hoyos (Tennessee Clean Water Network), Jerome E. Perez (Daniel Boone National Forest), Gene Nettles, Betty Bissinger, Adam P. Barr, Kelly Craig, Erin L. Crowly, Lisa Dettlinger, Amanda Dreckman, Gill Holland (Gallery NuLu), Murray Johnson, Wallace McMullen, Jane Sparkman, Nancy Sullivan, Richard Ullrich, Jane Marie Watts (Kentucky Heartwood), Mark With

The commenters oppose the Division's approach to implementing the Clean Water Act Antidegradation requirement. Nothing supports the conclusion that the current version of the "designation" approach to implementation is working to provide adequate protection to Tier II waters. Kentucky's rules were drafted and approved based on the guarantee that 90% of our waters would receive Tier II protections. The 2008 Integrated Report to Congress on Water Quality in Kentucky reveals this percent continues to decline and may protect as few as 30% of Kentucky's waters from unnecessary degradation. The only way to effectively implement this basic CWA requirement is on a parameter-by-parameter basis.

(b) Response: U.S. EPA approved Kentucky's antidegradation implementation regulation in 2005. Several environmental groups challenged EPA's approval by filing a lawsuit in federal court. Kentucky Waterway Alliance, et al. v. Stephen L. Johnson, et al., 426 F.Supp.2d (W.D. Ky. 2006). Plaintiffs' arguments to the district court included the issues raised in this comment. The U.S. Court of Appeals for the Sixth Circuit issued an opinion and judgment in this case on September 3, 2008 (2008 WL 4057140, 6th Cir.,

2008). The Sixth Circuit upheld EPA's approval of Kentucky's use of the waterbody-by-waterbody approach to classifying waters for anti-degradation purposes, rather than the parameter-by-parameter approach. The Sixth Circuit also upheld EPA's approval of Kentucky's decision to exclude impaired waters from Tier II. The agency will work with EPA to address the remanded portions of EPA's approval decision, including the antidegradation requirements for surface mining permits and whether permits for the following sources cause only *de minimis* degradation: (1) renewals and modifications that result in less than a 20% increase in pollutant loading; (2) new or expanded industrial discharges that accept twice as stringent limits; (3) new or expanded domestic discharges that accept certain specific limits; (4) discharges covered by stormwater general permits; and, (5) CAFOs.

(48) Subject Matter: 10:030, Propose additional waters for "Exceptional Water"

(a) Comment: Judith Petersen (Kentucky Waterways Alliance), Betsy Bennett (Sierra Club), Tom FitzGerald (Kentucky Resources Council, Inc.), Bruce Scott (Kentucky Waterways Alliance), Albert Ettinger (Environmental Law & Policy Center of the Midwest)

The commenters propose the following additional waters to the Exceptional Water designation: Lake Cumberland, Barren River, Rough River, Paintsville Reservoirs, Dewey Lake, Grayson Lake, Kentucky River, and Carr Creek Lake. Both EPA and the Cabinet have acknowledged in court filings that federal law requires states to provide Tier II protection to all waters that "support both aquatic life-based uses and recreation-based uses." If the Cabinet does not provide Tier II antidegradation protection for waters such as those listed above by designating them as OSRW or exceptional waters, then U.S. EPA will have to reevaluate whether the State's method for assigning antidegradation protection continues to meet the requirements of 40 C.F.R. § 131.12(a)(2). Plainly, all of these waters abundantly support both aquatic life-based uses and recreation.

(b) Response: These waters receive high quality or Tier II protection unless they are impaired for one or more uses. Several of the waters would not qualify for high quality protection under current regulation because they are impaired for one or more uses as currently defined in 401 KAR 10:030.

Section 1(3)(a)2 states that waters listed as OSRWs in 401 KAR 10:026 are considered high quality (Tier II) unless they are ONRWs or Exceptional waters. In other words, OSRWs are not considered impaired for antidegradation implementation purposes. However, they are not considered to be Exceptional unless they possess the qualities identified in 401 KAR 10:030 Section 1(2)(a).

(49) Subject Matter: 10:030, Modify the POTW facility planning process to provide a meaningful opportunity for the public to participate

(a) Comment: Judith Petersen (Kentucky Waterways Alliance), Betsy Bennett (Sierra Club), Tom FitzGerald (Kentucky Resources Council, Inc.), Bruce Scott (Kentucky Waterways Alliance), Albert Ettinger (Environmental Law & Policy Center of the Midwest)

The Cabinet should modify the POTW facility planning process to provide a meaningful opportunity for the public to participate.

(b) **Response:** Our public participation process for facility planning is sufficient and effective, as it requires owners of POTWs to give public notice of their draft facilities plans and hold public meetings to present those plans. 401 KAR 5:006, Section 5- "Public Notice, Public Comment, and Public Hearing Requirements", provides specific instructions on how to prepare public notices, what information to include in a public notice, how long to keep the public comment period open, and how members of the public can comment on facility plans.

The public participation process provides thirty (30) days for people to comment on the proposed facility plans, which is consistent with the public comment timeframes for a KPDES permit. Pursuant to 401 KAR 5:005 Section 4(8), the regional planning agency must include in the regional facility plan any public comment it receives, as well as the transcript from any public hearing. Therefore, the cabinet is aware of all public comments made on the plan.

(50) Subject Matter: 10:030, Tier II protections

(a) Comment: Judith Petersen (Kentucky Waterways Alliance), Betsy Bennett (Sierra Club), Tom FitzGerald (Kentucky Resources Council, Inc.), Bruce Scott (Kentucky Waterways Alliance), Albert Ettinger (Environmental Law & Policy Center of the Midwest)

Waters that are only impaired for fish consumption or swimming should be covered by Tier II protections if they support propagation of aquatic life and support some form of recreation. The majority of Kentucky's waters have been found to be impaired for one or more uses, and so they will not receive Tier II protection. Kentucky should expand Tier II coverage to all waters except those that actually are incapable of supporting aquatic life and recreation.

(b) **Response:** The majority of Kentucky's waters have not been found to be impaired. The majority of waters monitored have been found to be impaired, and the agency has been able to monitor only about 20% of the state's waters. Also, please see the agency's response to comment (47) in this SOC.

(51) Subject Matter: 10:030, The antidegradation implementation methodology should be revised to clarify that coal mining discharges are not exempt from antidegradation requirements.

(a) Comment: Judith Petersen (Kentucky Waterways Alliance), Betsy Bennett (Sierra Club), Tom FitzGerald (Kentucky Resources Council, Inc.), Bruce Scott (Kentucky Waterways Alliance), Albert Ettinger (Environmental Law & Policy Center of the Midwest)

401 KAR 10:030 Sections 1(2)(b)(1)b and (3)(b)(1)b provide that the Tier II regulations "shall not apply" to coal mining discharge subject to regulation under the Surface Mining Control and Reclamation Act except the cabinet shall assure water quality necessary to fully protect existing uses. In contrast to the apparent plain language of the regulation, KDOW has repeatedly stated that coal mining is not "exempt" from Tier II antidegradation protections. The Cabinet should take this opportunity to eliminate the apparent contradiction between the language of 401 KAR 10:030 Sections 1(2)(b)(1)b and (3)(b)(1)b and the Cabinet and EPA's interpretations. By deleting the exemption for

coal mining discharges at 401 KAR 10:030 Sections 1(2)(b)(1)b and (3)(b)(1)b, the KDOW can eliminate public confusion and controversy regarding the scope of antidegradation coverage regarding coal mining without changing the policies that it believes should be implemented and that have now been endorsed by the industry.

(b) Response: Please see the agency's response to comment (47) in this SOC.

(52) Subject Matter: 10:030, The Cabinet must tighten several exemptions to ensure that lowering of water quality is truly *de minimis* and reflects the commitment made by the Cabinet to U.S. EPA and the courts.

(a) Comment: Judith Petersen (Kentucky Waterways Alliance), Betsy Bennett (Sierra Club), Tom FitzGerald (Kentucky Resources Council, Inc.), Bruce Scott (Kentucky Waterways Alliance), Albert Ettinger (Environmental Law & Policy Center of the Midwest)

Kentucky's implementation procedures contain several provisions that exempt categories of new or increased discharges from Tier II review. In many cases, the Cabinet has made representations to EPA and the federal courts that it will implement these exemptions in a manner that will ensure any resulting degradation is *de minimis*- and EPA has claimed that it approved the rules based on these representations. However, these representations do not appear in the actual text of the implementation rules, but rather appear in letters, side agreements and court filings. Kentucky's regulations should say what they mean and mean what they say. The Cabinet should use this triennial review to make the language of the Kentucky rules consistent with how they intend to implement the antidegradation program.

(b) Response: Please see the agency's response to comment (47) in this SOC.

(53) Subject Matter: 10:030, The rules should not allow use of more than 10% of assimilation capacity as de minimis.

(a) Comment: Judith Petersen (Kentucky Waterways Alliance), Betsy Bennett (Sierra Club), Tom FitzGerald (Kentucky Resources Council, Inc.), Bruce Scott (Kentucky Waterways Alliance), Albert Ettinger (Environmental Law & Policy Center of the Midwest)

There can be no justification for failing to apply the 10% limit on use of assimilation capacity across the board to all of the exceptions to Tier II review that are allowed by the rules. Thus, revised rules should explicitly limit 401 KAR 10:030 Sections 1(2)(b)3, 4, 6 and 1(3)(b)2, 4, which allow dischargers of domestic sewerage to accept certain permit limits as to eight pollutant parameters (for "Exceptional" waters) or seven pollutant parameters (for "High Quality" waters) in lieu of making the Tier II showing that the new or increased discharge is necessary, and 401 KAR 10:030 Section 1(2)(b)5 and 6 and 401 KAR 10:030 Section 1 (3)(b)3 and 4, that exempts industrial dischargers from Tier II review if they accept permit limits that are "restricted to no more than one-half (1/2) of the water quality based limitations that would have been permitted at standard design conditions," to state that they do not exempt from Tier II review any new or increased discharge that would reduce assimilative capacity for any pollutant by 10% or more. In doing this, the rules should make clear that the 10% limit applies fully to pollutants for which there are currently no numeric standards. KDOW should state in its response to these comments whether it agrees with EPA regarding the intent of the rules and amend

the rules so that the regulated community and the public are informed and controlled by this interpretation.

(b) Response: Please see the agency's response to comment (47) in this SOC.

(54) Subject Matter: 10:030, Cumulative cap

(a) Comment: Judith Petersen (Kentucky Waterways Alliance), Betsy Bennett (Sierra Club), Tom FitzGerald (Kentucky Resources Council, Inc.), Bruce Scott (Kentucky Waterways Alliance), Albert Ettinger (Environmental Law & Policy Center of the Midwest)

A second requirement for any *de minimis* exemption from Tier II antidegradation requirements is that such exemption be subject to a cumulative cap, so that individual discharges allowed to pass as trivial do not end up having a significant combined impact. The Cabinet should make sure that the text of Kentucky's rules explicitly incorporate a cumulative cap and accurately reflect the agreements reached with EPA.

(b) Response: Please see the agency's response to comment (47) in this SOC.

(55) Subject Matter: 10:030, 20% expansion exception

(a) Comment: Judith Petersen (Kentucky Waterways Alliance), Betsy Bennett (Sierra Club), Tom FitzGerald (Kentucky Resources Council, Inc.), Bruce Scott (Kentucky Waterways Alliance), Albert Ettinger (Environmental Law & Policy Center of the Midwest)

The rules must codify the limit on the 20% expansion exception to provide that the exception cannot be used if the expansion would use more than 10% of the remaining assimilative capacity.

(b) Response: Please see the agency's response to comment (47) in this SOC.

(56) Subject Matter: 10:030, Default domestic limits

(a) Comment: Judith Petersen (Kentucky Waterways Alliance), Betsy Bennett (Sierra Club), Tom FitzGerald (Kentucky Resources Council, Inc.), Bruce Scott (Kentucky Waterways Alliance), Albert Ettinger (Environmental Law & Policy Center of the Midwest)

The default domestic limits should be limited to consumption of 10% of assimilative capacity, should recognize modern treatment capabilities, and the implied limitations on the use of the limits should be made explicit.

(b) Response: Please see the agency's response to comment (47) in this SOC.

(57) Subject Matter: 10:030, Non-domestic exemption

(a) Comment: Judith Petersen (Kentucky Waterways Alliance), Betsy Bennett (Sierra Club), Tom FitzGerald (Kentucky Resources Council, Inc.), Bruce Scott (Kentucky Waterways Alliance), Albert Ettinger (Environmental Law & Policy Center of the Midwest)

Non-domestic exemption should be conditioned to ensure that only insignificant degradation is allowed.

(b) Response: Please see the agency's response to comment (47) in this SOC.

(58) Subject Matter: 10:030, Stormwater general permit exemption

(a) Comment: Judith Petersen (Kentucky Waterways Alliance), Betsy Bennett (Sierra Club), Tom FitzGerald (Kentucky Resources Council, Inc.), Bruce Scott (Kentucky Waterways Alliance), Albert Ettinger (Environmental Law & Policy Center of the Midwest)

The exemption for stormwater general permits must be limited to ensure that such discharges will not cause a significant lowering of water quality.

(b) Response: A general permit is not issued if there is to be a significant lowering of water quality, and the antidegradation requirements would then be in place.

(59) Subject Matter: 10:030, CAFO exemption

(a) Comment: Judith Petersen (Kentucky Waterways Alliance), Betsy Bennett (Sierra Club), Tom FitzGerald (Kentucky Resources Council, Inc.), Bruce Scott (Kentucky Waterways Alliance), Albert Ettinger (Environmental Law & Policy Center of the Midwest)

The CAFO exemption should include adequate safeguards to ensure that significant lowering of water quality will not occur.

(b) Response: An animal feeding operation that exceeds a threshold number of animals and has a discharge, or proposes to have a discharge, is required to apply for and obtain a permit under the Clean Water Act (see Waterkeeper Alliance, Inc. v EPA, 399 F.3rd 486 (2nd Cir. 2005)). However, because the Effluent Limitation Guideline (ELG) for the KPDES permit issued to such facility prohibits the discharge of process water from the animal production areas, except under abnormally heavy precipitation events, it functions essentially as a "no discharge" permit under normal operation. The Second Circuit ruling in Waterkeeper Alliance, Inc. v EPA, 399 F.3rd 486 (2nd Cir. 2005) concluded that a concentrated animal feeding operation (CAFO) operating with no actual or proposed discharge has no duty to obtain a Clean Water Act permit. Therefore, these facilities would not be subject to an antidegradation review. For these reasons, the cabinet proposes to retain the current antidegradation implementation procedures that do not require CAFOs to conduct an antidegradation review. The cabinet agrees that adequate safeguards ensuring that significant lowering of water quality will not occur need to be in place and believes that this safeguard is provided by an adequate permit with requirements and conditions appropriate to this outcome.

(60) Subject Matter: 10:030, Application and decision making procedures should be placed into the rules

(a) Comment: Judith Petersen (Kentucky Waterways Alliance), Betsy Bennett (Sierra Club), Tom FitzGerald (Kentucky Resources Council, Inc.), Bruce Scott (Kentucky Waterways Alliance), Albert Ettinger (Environmental Law & Policy Center of the Midwest)

We believe that the antidegradation rules should be improved to spell out what must be contained in an application for an NPDES permit or 401 certification involving a new or increased discharge and should describe the factors that KDOW will use in determining whether or not to accept the Tier II demonstration.

(b) Response: 401 KAR 10:030 Section 1(2)(b)7 spells out the items that must be addressed. These items are best laid out in the KPDES permitting program.

(61) Subject Matter: 10:030, Geometric Mean

(a) Comment: John Martin, HWEA

The term "geometric mean" is used, but not defined. Mr. Martin recommends that the definition be added to 10:001.

(b) Response: Please see the agency's response to comment (5) in the SOC for 401 KAR 10:001.

(62) Subject Matter: 10:031, Oppose chloride criteria

(a) Comment: Timothy J. Hagerty (The Chambers), Jack C. Bender (Greenebaum Doll & McDonald, PLLC), Lloyd R. Cress, Jr. (KAM/CIC), Bill Caylor (Kentucky Coal Association), Laura M. Knoth (Kentucky Farm Bureau Federation), Sylvia L. Lovely (Kentucky League of Cities), Ross Kreutzjans (Legacy Management), Mark Dopp (American Meat Institute), Tab Farthing (Hall Environmental Consultants, LLC), Jonathan Zimmerman (Sara Lee Foods), John Toebben (Toebben Companies)

The Division of Water is proposing to amend the current WAH water quality criteria for chloride based on USEPA-issued recommendations. While EPA's criteria are based on a nationwide, generic approach, Kentucky's current criteria originate from a study conducted by University of Kentucky researchers in 1985 and are based on the effects of chlorides on Kentucky waters - a state-specific study. USEPA has approved Kentucky's current criteria at least four times and has not suggested revisions to reflect these federal recommendations. Further, USEPA's current recommendations for aquatic water quality criteria specifically state support for state-specific alternate standards that "reflect local environmental conditions and human exposure patterns." The lowering of Kentucky's current chloride criteria will have significant impact on many industries and activities throughout the state. A number of KPDES permits have been issued based on the current criteria, and TMDLs designed to achieve compliance with current criteria have been developed and implemented for several impaired streams. As such, the Division of Water should retain the current WAH criteria found in 401 KAR 10:031, Section 6 of 1,200 mg/L acute and 600 mg/L chronic for chloride.

(b) Response: The agency has decided that the proposed revised criteria should not go forward at this time. Chloride toxicity research is being conducted by USEPA headquarters. We have received a re-calculation of chloride criteria from USEPA headquarters using additional test species that indicates an acute criterion considerably lower (from 860 to 546 mg/l) than the current USEPA recommended criterion, while raising the chronic criterion from 230 to 382 mg/l. Both re-calculated criteria are lower than Kentucky's current criteria of 600 mg/l chronic and 1200 mg/l acute. These criteria have not yet been finalized by USEPA and are not published final recommended criteria. Therefore, Kentucky will retain its chloride criteria based on the 1985 study published by Birge et al. and will review the appropriateness of these criteria in light of any new EPA recommended criteria in the next triennial review. The agency possesses the ability to address toxicity in specific situations by other means as needed.

(63) Subject Matter: 10:031, Use Attainability

(a) Comment: Timothy J. Hagerty (The Chambers), Bill Caylor (Kentucky Coal Association)

The commenters recommend that Section 11 be amended to conform to the federal regulations by authorizing exceptions to criteria where compliance is not feasible because of the factors identified in 40 CFR 131.10(g).

(b) Response: The agency agrees and a change has been made in 401 KAR 10:031 Section 11. EPA, in the August 2000 approval of Kentucky's water quality standards revisions, stated that these factors could be applied to exceptions to criteria for individual dischargers.

(64) Subject Matter: 10:031, Water quality criteria for Ohio River

(a) Comment: Timothy J. Hagerty (The Chambers), Jack C. Bender (Greenebaum Doll & McDonald, PLLC), Lloyd R. Cress, Jr. (KAM/CIC), Laura M. Knoth (Kentucky Farm Bureau Federation), Sylvia L. Lovely (Kentucky League of Cities), Judith Petersen (Kentucky Waterways Alliance), Betsy Bennett (Sierra Club), Tom FitzGerald (Kentucky Resources Council, Inc.), Bruce Scott (Kentucky Waterways Alliance), Albert Ettinger (Environmental Law & Policy Center of the Midwest), Joanne Benante (US Environmental Protection Agency)

The Division of Water proposes to amend 401 KAR 10:031 Section 9 to apply the requirements and limits of the Ohio River Valley Sanitation Commission's Pollution control Standards for Discharges to the Ohio River. The commenters are concerned that the implications of the change have not been fully identified or evaluated by DOW.

(b) Response: Based on comments received on the proposed revisions to 401 KAR 10:031 Section 9, the agency is making changes to this section by not incorporating wholesale ORSANCO's Pollution Control Standards. The result of the revisions will be that Kentucky's water quality standards regulations 401 KAR 10:001, 10:026, 10:029, 10:030, and 10:031 will apply to the Ohio River except for one instance (the addition of nitrite-nitrogen). The provisions for which ORSANCO's standards apply will be specified in Table 2. In addition, ORSANCO has no policy or implementation guidance for antidegradation.

By applying Kentucky's existing and proposed water quality standards to the Ohio River, Kentucky is as stringent as the ORSANCO standards with a few exceptions. These consist of:

a) Ammonia for aquatic life protection (at times more stringent depending on conditions);
b) Mercury, gamma-BHC (lindane), and 1,1-dichloroethylene for human health protection;
c) Fluoride, silver, nitrite-nitrogen, and phenolics for taste and odor or national drinking water standards;
d) The phase-out of mixing zones for bioaccumulative chemicals of concern (BCCs) is one year earlier than Kentucky's regulations (2013 versus 2014);

Dissolved oxygen was already more stringent for the Ohio River in Kentucky's previous regulation 401 KAR 5:031 Section 9 with a minimum concentration of 5.0 mg/l (instead

of the usual minimum 4.0 mg/l) during fish spawning period of April 15 – June 15. This standard will be carried over to the revised regulation.

ORSANCO's fecal coliform bacteria criteria for human health (2000 colonies/ml as a geometric mean based on not less than 5 samples per month) are covered by Kentucky's more stringent secondary contact recreation limit (1000 colonies/ml as a geometric mean for not less than five samples collected in a 30-day period).

ORSANCO's human health criteria for nitrite-nitrogen (1.0 mg/l), a constituent that Kentucky does not list, will be included in Section 9.

For reasons given below, in several instances the agency will apply Kentucky's water quality standards even though ORSANCO's 2006 Pollution Control Standards are more stringent.

1,1-Dichloroethylene and gamma-BHC (lindane) now have higher recommended USEPA criteria than ORSANCO's latest version (2006) of its Pollution Control Standards, and Kentucky is not adopting the current, more stringent ORSANCO criteria since they are not the most recent USEPA final recommended criteria and ORSANCO is anticipated to update to these criteria in their 2009 revisions.

Even though somewhat less stringent, Kentucky has decided to apply its criteria for: 1) fluoride of 4.0 mg/l (see Response (16)); 2) silver of 0.1 mg/l, which is the more recent secondary drinking water regulation, instead of ORSANCO's current 0.05 mg/l; and 3) a fish flesh tainting criterion for phenolics of 300 ug/l (that Kentucky is replacing with EPA's current recommended criterion for phenol instead of an old criterion of 5 ug/l for phenolic compounds; see Response (14)).

For ammonia, USEPA is in the process of conducting a review of ammonia criteria, a process that includes research on ammonia toxicity to mussels. Kentucky will remain with its current criteria until USEPA incorporates these data into revised final recommended criteria.

The agency will not change its regulation to impose ORSANCO's 2013 date for the elimination of mixing zones for BCCs since Kentucky already has the provision in 401 KAR 10:029 subsection 4(10) to eliminate these mixing zones in 2014.

Kentucky will maintain its currently effective human health criteria for mercury of 0.051 ug/l in the water column in addition to the new requirement of 0.3 ppm methylmercury in fish tissue. The most stringent criteria will be applied in the 402 permitting program based on bioaccumulation factors that pertain to a specific waterbody.

(65) Subject Matter: 10:031, Radionuclides

(a) Comment: Lloyd R. Cress (Jr., KAM/CIC), Joanne Benante (US Environmental Protection Agency)

The commenters support the proposed modification to include the criteria for radionuclides in Section 5 as applicable to the Domestic Water Supply Use. USEPA wanted confirmation that these criteria were never intended to apply to waters that are not DWS or implemented them in such waters.

(b) **Response:** The agency acknowledges the comments regarding the appropriateness of placing radionuclide criteria under domestic water supply use and not as minimum criteria that apply to all waters. The radionuclide criteria are maximum contaminant levels set by USEPA to protect drinking water. Recently, in practice, the agency resolved a challenge by a permittee on applying the criteria to water that did not have a drinking water intake by stating that the appropriate change would be made to water quality standards revisions in the triennial review, and that is what is being done here. The agency can apply narrative standards found in 401 KAR 10:031 Section 2 to protect all waters for other uses.

(66) Subject Matter: 10:031, Support postponing development of nutrient criteria

(a) Comment: Lloyd R. Cress, Jr. (KAM/CIC), Laura M. Knoth (Kentucky Farm Bureau Federation)

The commenters support the Division's determination to postpone promulgation of numeric nutrient criteria until adequate data can be collected to justify the promulgation of the criteria.

(b) **Response:** The agency received several comments, both pro and con, on its decision to postpone promulgation of nutrient criteria until the next triennial review. The decision was based on the need to collect more data in certain areas of the state in which there are insufficient data across a range of biological conditions and nutrient concentrations to determine the nutrient levels that result in significant biological community response. From its own resources and with assistance from USEPA grants, the agency continues to collect the data necessary to complete the nutrient criteria development process statewide. In the meantime, the agency is: 1) setting technology-based phosphorus limits on several permits where nutrient enrichment is a problem; 2) completing nutrient TMDLs and setting instream targets in regions of the state where the biological response/nutrient concentration relationship is established; and 3) developing a statewide nutrient reduction strategy as part of its efforts to address not only local issues but also the Gulf of Mexico hypoxia problem.

Kentucky did not adopt nutrient criteria published by USEPA because they were not effects-based and because they combined data from many types of different waters from broad eco-regions into a single database from which statistically-derived criteria were calculated. Kentucky's approach is based on biological effects for bio-regions and will be more scientifically defensible both in regard to the criteria and the specific waters to which the criteria will apply.

(67) Subject Matter: 10:031, Iron

(a) Comment: Bill Caylor (Kentucky Coal Association)

The Division's announced intentions regarding iron were to add a new criterion to protect warmwater aquatic habitat and to delete the present acute criterion to protect warmwater aquatic habitat. The intention to delete the acute criterion for iron was consistent with the

overall intention to update criteria consistent with federal recommendations. The proposed amendment did not reflect the Division's expressed intentions. KCA recommends that the Division (1) add the new criterion for drinking water protection, (2) retain its present chronic criterion, and (3) delete the historic acute criterion. An alternative to deleting the acute criterion for iron would be to revise footnote 3 of Table 1 in Section 6 to provide that metal concentrations shall be measured as dissolved metals rather than total recoverable metals.

(b) **Response:** The agency's proposed intention was not to delete the acute criterion for iron and it did not propose any revisions to its iron criteria in the proposed regulations. There was an error in the table that was initially provided. Kentucky has had an acute iron criterion for iron since 1990 based on the work of Birge et al. in 1985 that also produced the chloride criteria. Acute iron toxicity was demonstrated both in the field and the lab, and the agency is not proposing to change the acute criterion currently in place. The footnote for metals in Table 1 of Section 6 in 401 KAR 10:031 allows a demonstration to be made if a form of the metal other than total recoverable is more appropriate (i.e. causing toxicity). The agency believes this provision provides adequate opportunity to make a demonstration based on good science that will be considered in permitting programs.

(68) **Subject Matter: 10:031, Antidegradation under litigation**

(a) **Comment: Sylvia L. Lovely (Kentucky League of Cities)**
The antidegradation provisions of Kentucky's law, approved by the federal EPA, are currently the subject of litigation before the 6th Circuit Court of Appeals. The League notes this issue to your attention in the hopes that you will carefully review the changes proposed in the draft regulations so that they do not diminish the protections currently provided in the regulations that are the subject of litigation or jeopardize the Division's regulatory authority described therein.

(b) **Response:** The agency did not propose significant changes to 401 KAR 10:030, except to add new ONRWs and Exceptional waters. Also, please see the agency's response to comment (47) in this SOC.

(69) **Subject Matter: 10:031, Ammonia**

(a) **Comment: Donald S. Dott, Jr. (Kentucky State Nature Preserves Commission), Judith Petersen (Kentucky Waterways Alliance), Betsy Bennett (Sierra Club), Tom FitzGerald (Kentucky Resources Council, Inc.), Bruce Scott (Kentucky Waterways Alliance), Albert Ettinger (Environmental Law & Policy Center of the Midwest)**
The current regulations regarding ammonia (in Section 4) are inadequate to protect freshwater mussels.

(b) **Response:** USEPA is in the process of conducting a review of the ammonia criteria, a process than includes research on ammonia toxicity to mussels. Kentucky will remain with its current criteria until USEPA incorporates these data into revised final recommended criteria.

(70) **Subject Matter: 10:031, Oppose postponing development of nutrient criteria**

(a) **Comment: Hank Graddy (Kentucky Watershed Watch), Judith Petersen (Kentucky Waterways Alliance), Betsy Bennett (Sierra Club), Tom FitzGerald**

(Kentucky Resources Council, Inc.), Bruce Scott (Kentucky Waterways Alliance), Albert Ettinger (Environmental Law & Policy Center of the Midwest)
The commenters express strong opposition to this version of the Kentucky Triennial Review which fails to propose numeric nutrient water quality standards

(b) Response: Please see the agency's response to comment (66) in this SOC.

(71) Subject Matter: 10:031, Support adopting fish tissue criteria for mercury

(a) Comment: Hank Graddy (Kentucky Watershed Watch)
Mr. Graddy strongly supports the adoption of fish tissue criteria for mercury.

(b) Response: The agency acknowledges the comment.

(72) Subject Matter: 10:031, Dissolved Oxygen for Exceptional Waters

(a) Comment: Judith Petersen (Kentucky Waterways Alliance), Betsy Bennett (Sierra Club), Tom FitzGerald (Kentucky Resources Council, Inc.), Bruce Scott (Kentucky Waterways Alliance), Albert Ettinger (Environmental Law & Policy Center of the Midwest)
The commenters fully support "OSRWs that are listed as Exceptional Waters shall have a dissolved oxygen maintained at a minimum concentration of 6.0 mg/l as a 24 hour average and an instantaneous minimum concentration of not less than 5.0 mg/l."

(b) Response: The agency acknowledges the comment.

(73) Subject Matter: 10:031, Nonylphenol

(a) Comment: Judith Petersen (Kentucky Waterways Alliance), Betsy Bennett (Sierra Club), Tom FitzGerald (Kentucky Resources Council, Inc.), Bruce Scott (Kentucky Waterways Alliance), Albert Ettinger (Environmental Law & Policy Center of the Midwest), Joanne Benante (US Environmental Protection Agency)
The commenters commend Kentucky for proposing a nonylphenol (NP) standard. However, USEPA NP standard for freshwater acute and chronic criteria may not be adequately protective. The commenters urge the adoption of a criterion that recognizes the additive toxicity of NP with the nonylphenol ethoxylates with which NP is generally found in wastewater. USEPA suggests adding the CAS number for nonylphenol.

(b) Response: The agency acknowledges the comment. Kentucky adopted the final recommended USEPA criteria and will consider revisions when USEPA reissues those criteria. The CAS for nonylphenol has been added – 1044051.

(74) Subject Matter: 10:031, Sulfate

(a) Comment: Judith Petersen (Kentucky Waterways Alliance), Betsy Bennett (Sierra Club), Tom FitzGerald (Kentucky Resources Council, Inc.), Bruce Scott (Kentucky Waterways Alliance), Albert Ettinger (Environmental Law & Policy Center of the Midwest)
Kentucky should adopt standards that have been adopted by Illinois and Indiana for sulfate. More information on the sulfate criteria developed by EPA and Illinois EPA can be obtained at http://www.ipcb.state.il.us/documetns/dsweb/Get/Document-54756/.

(b) Response: Kentucky has narrative standards for dissolved substances in 401 KAR 10:031 Section 4(1)9(f) that allows it to address issues arising from effects of sulfate and other dissolved substances on aquatic life. The agency will consider Illinois' and

Indiana's work when applying these narrative criteria. Kentucky also has a criterion (250 mg/l) that applies to domestic water supply use and to permit limits for antidegradation purposes, and it also applies to mixing zones on the Ohio River.

(75) Subject Matter: 10:031, Section 2 (1) (f), "Cause fish flesh tainting"

(a) Comment: Judith Petersen (Kentucky Waterways Alliance), Betsy Bennett (Sierra Club), Tom FitzGerald (Kentucky Resources Council, Inc.), Bruce Scott (Kentucky Waterways Alliance), Albert Ettinger (Environmental Law & Policy Center of the Midwest)

The cabinet should not remove "The concentration of all phenolic compounds which cause fish flesh tainting shall not exceed five (5) µg/l as an instream value."

(b) Response: This criterion no longer exists as a USEPA final recommended criterion. The agency will adopt the current final recommended criterion for phenol of 300 ug/l because of organoleptic effects (in this case fish flesh tainting). Therefore, the updated criterion has been included in the revised administrative regulation.

(76) Subject Matter: 10:031, Support several criteria in Table 1

(a) Comment: Judith Petersen (Kentucky Waterways Alliance), Betsy Bennett (Sierra Club), Tom FitzGerald (Kentucky Resources Council, Inc.), Bruce Scott (Kentucky Waterways Alliance), Albert Ettinger (Environmental Law & Policy Center of the Midwest)

The commenters support the adoption of several criteria for the protection of human health and aquatic life.

(b) Response: The agency acknowledges the comments.

(77) Subject Matter: 10:031, Oppose several criteria in Table 1

(a) Comment: Judith Petersen (Kentucky Waterways Alliance), Betsy Bennett (Sierra Club), Tom FitzGerald (Kentucky Resources Council, Inc.), Bruce Scott (Kentucky Waterways Alliance), Albert Ettinger (Environmental Law & Policy Center of the Midwest)

The commenters oppose the criteria limits, which meet EPA recommendations, for the following: fluoride; gamma-BHC (Lindane); methoxychlor; 1, l-dichloroethylene; 2, 4-D.

(b) Response: USEPA periodically reviews the most recent data, and final recommended criteria will increase as well as decrease based on the most recent science. That is the case for the substances referred to above (except fluoride), which now have less stringent criteria than previously. 1,1-dichloroethylene increased significantly because it is no longer considered a carcinogen. The criterion for fluoride is the maximum contaminant level in the National Primary Drinking Water Regulations.

(78) Subject Matter: 10:031, Iron – oppose criteria change

(a) Comment: Anda A Ray (Tennessee Valley Authority)

TVA has significant concerns with the proposed criterion for iron and believes that the establishment of the new proposed criterion will create implementation issue for DOW.

(b) Response: The agency is not proposing new iron criteria. The criteria have been in regulations since the 1970's for chronic and since 1990 for acute. Also, please see the agency's response to comment (67) in this SOC.

(79) Subject Matter: 10:031, Dissolved Oxygen for MWAH use category

(a) Comment: Joanne Benante (US Environmental Protection Agency)
US EPA requests that the agency provide information or supporting rationale which describes why the proposed criteria for dissolved oxygen are appropriate for the MWAH use category.

(b) Response: Please see the agency's response to comment (7) in this SOC. As the MWAH use is no longer being proposed, the DO criterion to protect the use is also removed in the revised regulation.

(80) Subject Matter: 10:031, AWQA Approval

(a) Comment: Laura M. Knoth (Kentucky Farm Bureau Federation)
The Farm Bureau Federation requests that the cabinet follow the requirements of the AWQA by bringing this regulation package before the Agriculture Water Quality Authority for review. This procedure is required under the Act for regulation changes that could impact agriculture and silviculture.

(b) Response: KRS 13A defines the procedures by which agency regulations are reviewed. The Agriculture Water Quality Authority (AWQA) membership and responsibilities are outlined in KRS 224.71-110. While the AWQA is not an approval authority on agency regulations, the AWQA may request overviews of agency regulations and the agency has historically agreed to those requests. To that end, the agency has presented to the AWQA on two previous occasions regarding the proposed water quality standards regulations. The agency is scheduled to present again to the AWQA on September 18, 2008.

V. Summary of Statement of Consideration and Action Taken by Promulgating Administrative Body

401 KAR 10:026. Designation of uses of surface waters. Comments were considered and the following changes are suggested:

Page 1
RELATES TO
Line 8

After "224.73-100 - 224.73-120", insert "<u>, EO 2008-507, 2008-531</u>".

Page 1
NECESSITY, FUNCTION, AND CONFORMITY
Line 13

At the beginning of the line, delete "Environmental and Public Protection".

Line 17

After "thus protect water resources.", insert the following:

<u>EO 2008-507 and 2008-531, effective June 16, 2008, abolish the Environmental and Public Protection Cabinet and establish the new Energy and Environment Cabinet.</u>

Page 2

Section 1(2)(e)
Line 10

After “water supply;”, insert “and”.

Page 2
Section 1(2)(f)
Line 11

After “resource water”, insert a period.
Delete “; and”.

Page 2
Section 1(2)(g)
Line 12

Delete paragraph (g) in its entirety.

Page 3
Section 2(4)(c)
Line 12

After "sources of pollution", delete "that".

Page 3
Section 2(4)(d)
Lines 16 and 17

After "or to operate", insert "the".
Delete "such".

Page 6
Section 4(1)(d)
Line 1

After "the supportive documentation", insert a comma.

Page 7
Section 5(1), Table A
Row 8

Delete Row 8 in its entirety, starting with “MWAH” and continuing through “Aquatic Habitat”.

Page 7
Section 5(2)(a)
Line 1

After “designated for the”, insert “uses”.
Delete “use”.

Page 7
Section 5(2)(b)
Line 4

After "(b)", delete "Waters where".

Line 5

After "implemented", insert "at locations listed".
Delete "are found".

After "in this section.", insert the following:

Table B: SURFACE WATER INTAKES FOR DOMESTIC WATER SUPPLY USE		
Name	**Description**	**County**
BIG SANDY RIVER BASIN		
Elkhorn City Water Department	**Mile 13.7 of Russell Fork**	**Pike**
Paintsville Utilities Commission	**Mile 38.9 of Levisa Fork**	**Johnson**
Louisa Municipal Water Works	**Mile 0.6 of Levisa Fork**	**Lawrence**
Prestonsburg City Utilities Commission	**Mile 57.5 of Levisa Fork**	**Floyd**
Pikeville Water Works/US Filter	**Mile 88.2 of Levisa Fork**	**Pike**
Martin County Water District #1	**Mile 23.8 of Tug Fork**	**Martin**
US Filter/Southern Water & Sewer District	**Mile 65.4 of Levisa Fork**	**Floyd**
Jenkins Water Works	**Mile 0.2 of Little Elkhorn Creek (Elkhorn Lake)**	**Letcher**
Mountain Water District	**Mile 4.6 of Russell Fork**	**Pike**
Martin County Water District #1	**Mile 23.8 of Tug Fork**	**Martin**
Jenkins Water Works	**Mile 24.1 of Elkhorn Creek**	**Letcher**
Little Sandy River Basin		
Grayson Utility Commission	**Mile 40.1 of Little Sandy River**	**Carter**
Greenup Water Plant	**Mile 0.7 of Little Sandy River**	**Greenup**
Tygarts Creek Basin		
Olive Hill Water Works	**Mile 2.2 of Perry Branch (Olive Hill Reservoir)**	**Carter**
Olive Hill Water Works	**Mile 81.1 of Tygarts Creek**	**Carter**
Upper Cumberland River Basin		

Table B: SURFACE WATER INTAKES FOR DOMESTIC WATER SUPPLY USE		
Water Service Corporation of KY	Mile 3.2 of Little Yellow Creek (Fern Lake)	Bell
Somerset Water Service	Mile 513.6 of Cumberland River (Lake Cumberland)	Pulaski
Corbin City Utilities Commission	Mile 17.3 of Laurel River (City Reservoir)	Laurel
Burnside Water Company	Mile 517.6 of Cumberland River (Lake Cumberland)	Pulaski
Albany Municipal Water Works Plant A	Mile 7.0 of Indian Creek (Lake Cumberland)	Clinton
Monticello Water & Sewer Commission	Mile 502.2 of Cumberland River (Lake Cumberland)	Wayne
London Utility Commission	Mile 1.2 of Indian Camp Creek (Laurel River Reservoir)	Laurel
Harlan Municipal Water Works	Mile 0.2 of Poor Fork	Harlan
Mt Vernon Municipal Water Works	Mile 3.3 of Renfro Creek (Lake Linville)	Rockcastle
Laurel County Water Department #2	Mile 23.9 of Laurel River (Dorthea Dam)	Laurel
McCreary County Water District Plant A	Mile 8.9 of Laurel Creek (Laurel Creek Reservoir)	McCreary
Burkesville Municipal Water Works	Mile 427.05 of Cumberland River	Cumberland
Mckee Municipal Water Works	Mile 2.3 of Bills Branch (Mckee City Reservoir)	Jackson
Williamsburg Water Works	Mile 584.15 of Cumberland River	Whitley
Jamestown Municipal Water Works	Mile 3.9 of Greasy Creek Branch (Lake Cumberland)	Russell
Jackson County Water Association Inc	Mile 2.1 of Flat Lick Creek (Beulah [Tyner] Lake)	Jackson
Knox County Utility Commission	Mile 642.61 of Cumberland River	Knox
Wood Creek Water District	Mile 7.2 of Wood Creek (Wood Creek Lake)	Laurel
Cumberland Water Works	Mile 25.2 of Poor Fork	Harlan
Pineville Water System	Mile 3.2 of Cannon Creek (Cannon Creek Lake)	Bell
Benham Water Works	Mile 3.5 of Looney Creek	Harlan
Woodson Bend Resort	Mile 2.98 of South Fk. Cumberland River (Lake Cumberland)	Pulaski

Table B: SURFACE WATER INTAKES FOR DOMESTIC WATER SUPPLY USE		
Barbourville Utility Commission	Mile 1.3 of Indian Camp Creek (Laurel River Lake)	Laurel
Cawood Water District	Mile 11.0 of Martins Fork	Harlan
Cumberland County Water District	Mile 419.7 of Cumberland River	Cumberland
Ky Parks Cumberland Falls	Mile 562.5 of Cumberland River	Whitley
Barbourville Utility Commission	Mile 635.5 of Cumberland River	Knox
Albany Municipal Water Works Plant B	Mile 6.7 of Indian Creek (Lake Cumberland)	Clinton
McCreary County Water District Plant B	Mile 31.0 of South Fork Cumberland River (Lake Cumberland)	McCreary
Evarts Municipal Water Works	Mile 0.1 on UT of Bailey Creek. UT at mile 0.6	Harlan
Evarts Municipal Water Works	Mile 1.0 of Bailey Creek	Harlan
Bell County Forestry Camp	Mile 0.2 of Bear Creek (Chenoa Lake)	Bell
Licking River Basin		
Millersburg Municipal Water Works	Mile 13.3 of Hinkston Creek	Bourbon
Paris Municipal Water Works	Mile 16.7 of Stoner Creek	Bourbon
Northern Ky Water Service District Plant A	Mile 4.8 of Licking River	Kenton
Mt Sterling Water & Sewer System	Mile 36.1 of Slate Creek at mile 36.1 (Reservoir)	Montgomery
Cynthiana Municipal Water Works	Mile 51.2 of South Fork Licking River	Harrison
Flemingsburg Utilities	Mile 0.7 of UT to Town Branch (Flemingsburg Lake)	Fleming
Williamstown Municipal Water	Mile 1.89 of Lake Branch (Lake Williamstown)	Grant
Morehead State University Water Plant	Mile 0.7 of Evans Branch (Evans Branch Impoundment)	Rowan
Morehead State University Water Plant	Mile 13.7 of Tripletts Creek	Rowan
Carlisle Municipal Water Plant	Mile 3.5 of UT to Brushy Fork (City Lake)	Nicholas
Falmouth Water Plant	Mile 52.7 of Licking River	Pendleton

Table B: SURFACE WATER INTAKES FOR DOMESTIC WATER SUPPLY USE		
Morehead Utility Plant Board	Mile 177.7 of Licking River	Rowan
West Liberty Water Company	Mile 228.6 of Licking River	Morgan
Western Fleming Water District	Mile 102.5 of Licking River	Nicholas
Salyersville Municipal Water Works	Mile 273.2 of Licking River	Magoffin
Cynthiana Municipal Water Works	Mile 84.5 of Licking River	Harrison
Flemingsburg Utilities	UT of Town Branch at mile 1.6 (Old Reservoir)	Fleming
Flemingsburg Utilities	Mile 131.8 of Licking River	Fleming
Carlisle Municipal Water Department	Mile 110.2 Licking River	Nicholas
West Liberty Water Company	Mile 3.9 of North Fork Licking River (Cave Run Lake)	Rowan
Cave Run Water Commission	Mile 197.4 of Licking River (Cave Run Lake)	Menifee
Rattlesnake Ridge Water District	Mile 57.4 of Little Sandy River (Grayson Lake)	Elliott
Kentucky River Basin		
Lancaster Municipal Water Works	Mile 145.2 of Kentucky River (Pool #8)	Garrard
Northpoint Training Center	Mile 17.3 of Dix River (Herrington Lake)	Boyle
Frankfort Electric & Water Plant Board	Mile 71.7 of Kentucky River (Pool #4)	Franklin
Hazard Water Department	Mile 104.1 of North Fork Kentucky River	Perry
Wilmore Utilities System	Mile 117.2 of Kentucky River (Pool #6)	Jessamine
Nicholasville Water Works	Mile 157.9 of Kentucky River (Pool #8)	Jessamine
Berea Municipal Utilities	Mile 3.6 of Cowbell Creek Cowbell Lake	Madison
Jackson Municipal Water Works	Mile 47.2 of North Fork Kentucky River	Breathitt
Kentucky American Water Company Plant A	Mile 171.5 of Kentucky River (Pool #9)	Fayette
Kentucky American Water Company Plant B	Mile 10.6 of East Hickman Creek (Reservoir #4)	Fayette
Kentucky American Water Company	Reservoir #1 (Lake Ellerslie)	Fayette

Table B: SURFACE WATER INTAKES FOR DOMESTIC WATER SUPPLY USE		
Danville Water Works	Mile 18.9 of Dix River (Herrington Lake)	Boyle
Lawrenceburg Municipal Water Works	Mile 86.2 of Kentucky River	Anderson
Versailles Municipal Water Works	Mile 87.7 of Kentucky River (Pool 5)	Woodford
Harrodsburg Municipal Water Works	Mile 121.0 of Kentucky River (Pool 7)	Mercer
Stanford Water Works	Mile 6.0 of Neals Creek.(Rice Lake [Stanford City Reservoir])	Lincoln
Richmond Utilities Board	Mile 206.49 of Kentucky River (Pool 11)	Madison
Whitesburg Municipal Water Works/Veolia Water	Mile 150.9of North Fork Kentucky River	Letcher
Manchester Water Works	Mile 3.9 of Beech Creek (Bert Combs Lake)	Clay
Georgetown Municipal Water & Sewer	Mile 33.5 of North Elkhorn Creek	Scott
Beattyville Water Works	Mile 1.3 of North Fork Kentucky River (Pool #14)	Lee
Bullock Pen Water District	Mile 2.8 Of Bullock Pen Creek (Bullock Pen Lake)	Grant
Ky Parks Natural Bridge State Park	Mile 0.11 of Mill Creek (Mill Creek Lake)	Powell
Winchester Municipal Utilities	Mile 6.5 of Lower Howard Creek (Winchester Reservoir [Carol E. Ecton Reservoir])	Clark
Winchester Municipal Utilities	Mile 1180.8 of Kentucky River (Pool #10)	Clark
Campton Water Works	Mile 0.3 of Hiram Branch (Campton Lake)	Wolfe
Hyden-Leslie County Water District	Mile 75.4 of Middle Fork Kentucky River (Buckhorn Reservoir)	Leslie
Booneville Water & Sewer District	Mile 12.8 of South Fork Kentucky River	Owsley
Georgetown Municipal Water & Sewer	Mile 0.61 of UT (Royal Springs) at mile 33.5 of North Elkhorn Creek	Scott
Owenton Water Works	Mile 0.6 of Severn Creek	Owen
Owenton Water Works	Mile 1.1 of UT to North Severn Creek at mile 5.5 (Lower Thomas Lake)	Owen

Table B: SURFACE WATER INTAKES FOR DOMESTIC WATER SUPPLY USE		
Irvine Municipal Utilities	Mile 223.4 of Kentucky River (Pool #11)	Estill
Bluegrass Army Depot	Mile 0.4 of Little Muddy Creek (Lake Vega)	Madison
Beech Fork Water Commission	Mile 0.3 of Beech Fork (Beech Fork Reservoir)	Powell
Berea Municipal Utilities	Mile 2.1 of East Fork Silver Creek (Lower Silver Creek Lake)	Madison
Berea Municipal Utilities	Mile 2.8 of East Fork Silver Creek (Upper Silver Creek Lake [Kales Lake])	Madison
Berea Municipal Utilities	Mile 2.5 of Owsley Fork (Owsley Fork Lake)	Madison
Manchester Water Works	Mile 18.9 of Goose Creek	Clay
Blackey Municipal Water Works	Mile 131.0 of North Fork Kentucky River	Letcher
Beech Fork Water Commission	Mile 31.0 of Red River	Powell
Salt River Basin		
Shelbyville Municipal Water & Sewer Commission	Mile 28.0 of Guist Creek (Guist Creek Lake)	Shelby
Bardstown Municipal Water Works	Mile 1.1 of Buffalo Creek (Lake Sympson)	Nelson
Lebanon Water Works Company	Mile 98.2 of Rolling Fork River	Marion
Springfield Water Works	Mile 4.2 of Long Lick Creek (Willisburg Lake)	Washington
Lebanon Water Works Company	Mile 1.0 of Fagan Branch (Fagan Branch Reservoir)	Marion
Springfield Water Works	Mile 1.3 of Allen Branch (Springfield Reservoir)	Washington
Green River Basin		
Hidden Valley Springs	Mile 0.4 of Hidden Valley Spring of UT to Rock Creek at mile 5.9	Grayson
Morgantown Utilities Commission	Mile 144.8 of Green River	Butler
Campbellsville Water Works	Mile 1.3 of Trace Fork (City Reservoir)	Taylor
Columbia Utilities Commission	Mile 42.7 of Russell Creek	Adair

Table B: SURFACE WATER INTAKES FOR DOMESTIC WATER SUPPLY USE		
Glasgow Water Co/Plant B	Mile 22.4 of Beaver Creek	Barren
Greensburg Municipal Water Works	Mile 283.5 of Green River	Green
Livermore Water Works	Mile 71.9 of Green River	McLean
Elizabethtown Municipal Water Works A	From Old City Spring at mile 10.6 of Valley Creek	Hardin
Elizabethtown Municipal Water Works A	Gaithers Station Spring at mile 6.9 of Valley Creek	Hardin
Bowling Green Municipal Utilities	Mile 38.1 of Barren River	Warren
Green River Valley Water District	Rio Springs at UT to Green River at mile 240.6	Hart
Hodgenville Water Works	Mile 5.8 of North Fork Nolin River	Larue
Hardinsburg/Us Filter	Tules Creek at mile 1.2 (Rough River Reservoir)	Breckinridge
Central City Municipal Water & Sewer	Mile 86.0 of Green River	Muhlenberg
Calhoun Water Works	Mile 63.9 of Green River	McLean
Hartford Municipal Water Works	Mile 29.8 of Rough River	Ohio
Greenville Utilities Commission	Luzerne Lake (Luzerne Lake no longer connected to Caney Creek at mile 2.3	Muhlenberg
Ohio County Water Plant	Mile 131.9 of Green River	Ohio
Franklin Water Plant	Mile 23.4 of West Fork Drake's Creek	Simpson
Glasgow Water Co/Plant A	Mile 86.8 of Barren River (Barren River Reservoir)	Barren
Leitchfield Municipal Water Works	Mile 107.7 of Rough River (Reservoir)	Grayson
Campbellsville Water Works	Mile 5.3 of Robinson Creek (Green River Reservoir)	Taylor
Edmonson County Water District	Mile 183.7 of Green River	Edmonson
Elizabethtown Municipal Water Works B	Mile 2.1 of Freeman Creek (Freeman Lake)	Hardin
Tompkinsville Municipal Water Works	Mile 6.0 of Mill Creek (Mill Creek Reservoir)	Monroe
Madisonville Municipal Water	Mile 54.l of Green River	Hopkins

Table B: SURFACE WATER INTAKES FOR DOMESTIC WATER SUPPLY USE		
Works		
Liberty Water Works	Mile 0.9 of Hickman Creek (Lake Liberty)	Casey
City of Lafayette (Tennessee)	Mile 118.4 of Barren River	Monroe
Stanford Water Works	Mile 0.6 of UT to Green River (James C. Harris Reservoir)	Lincoln
Hardin County Water District #2	Nolin River at mile 75.3 (White Mills Spring)	Hardin
Green River Valley Water District	Mile 240.6 of Green River	Hart
Scottsville Municipal Water Works	Mile 88.6 of Barren River (Barren River Lake)	Allen
Butler County Water System	Mile 143.8 of Green River	Butler
Edmonson County Water District	Mile 23.5 of Nolin River (Nolin Reservoir)	Grayson
Columbia Utilities Commission	Mile 317.5 of Green River (Green River Reservoir)	Adair
Henderson Water Utilities/South	Mile 41.3 of Green River	Webster
Webster Cnty Water District	Mile 47.5 of Green River	Webster
Hodgenville Water Works	Mile 0.3 of UT at mile 8.1 of North Fork Nolin River (Salem Lake)	Larue
Grayson County Water District	Mile 97.7 of Rough River (Rough River Reservoir)	Grayson
Lower Cumberland River Basin		
Kentucky State Penitentiary	Mile 40.2 of Cumberland River (Lake Barkley)	Lyon
Hopkinsville Water Environmental Authority	Mile 14.2 of North Fork Little River	Christian
Hopkinsville Water Environmental Authority	Mile 11.9 of Little River (Lake Barkley)	Trigg
Eddyville Municipal Water Works	Mile 1.5 of Knob Creek (Lake Barkley)	Lyon
Princeton Water Department	Mile 41.9 of Cumberland River (Lake Barkley)	Lyon
Kuttawa Municipal Water Plant	Mile 37.9 of Cumberland River (Lake Barkley)	Lyon

Table B: SURFACE WATER INTAKES FOR DOMESTIC WATER SUPPLY USE		
Barkley Lake Water District	Mile 0.7 of Hopson Creek (Lake Barkley)	Trigg
Crittenden-Livingston Co Water District	Mile 14.0 of Cumberland River	Livingston
Hopkinsville Water Environmental Authority	From Hopkinsville Stone Quarry No. 1 (South Quarry) adjacent to North Fork Little River at mile 14.8	Christian
Cadiz Water Company	Mile 13.5 of Little River	Trigg
Hopkinsville Water Environmental Authority	Hopkinsville Stone Quarry No. 2 (North Quarry) adjacent to White Creek at mile 0.2	Christian
TVA-Land Between The Lakes, Wrangler	Mile 1.0 on UT of Lick Creek at mile1.1	Trigg
Eddyville Municipal Water Works	Mile 40.2 of Cumberland River (Lake Barkley)	Lyon
Tradewater River Basin		
Providence Water Works	Mile 0.3 of Owens Creek (New Providence City Lake)	Webster
Madisonville Municipal Water Works	Mile 6.3 of Greasy Creek (Lake Pewee).	Hopkins
Earlington Water Works	Mile 0.2 of UT to Clear Creek at mile 26.5 (Loch Mary Reservoir)	Hopkins
Dawson Springs City Water & Sewer	Mile 0.1 of Piney Creek (Lake Beshear)	Caldwell
Providence Municipal Water Works	Mile 41.3 of Tradwater River	Webster
Ohio River Basin (Main Stem And Minor Tributaries [Note: river miles follow the USGS convention of starting mileage beginning at Pittsburgh, PA and ending at river mouth])		
Maysville Utility Commission	Mile 408.5 of Ohio River	Mason
Ashland Municipal Water Works	Mile 319.68 of Ohio River	Boyd
Northern Ky Water Service Dististrict - Newport Plant	Mile 463.6 of Ohio River	Campbell
Paducah Water Works	Mile 935.6 of Ohio River	McCracken
Louisville Water Company /ZPS A	Mile 600.6 of Ohio River	Jefferson

Table B: SURFACE WATER INTAKES FOR DOMESTIC WATER SUPPLY USE		
Henderson Water & Sewer Department	Mile 803.6 of Ohio River	Henderson
Northern Ky Water Service District Plant B	Mile 462.7 of Ohio River	Campbell
Morganfield Municipal Water Works	Mile 840.0 of Ohio River	Union
Russell Water Plant	Mile 327.7 of Ohio River	Greenup
Marion Municipal Water Works	Mile 26.4 of Crooked Creek (City Lake)	Crittenden
US Army Ft Knox A	Mile 8.6 of Otter Creek	Meade
Louisville Water Company BEPWTP B	Mile 594.7 of Ohio River	Jefferson
Sturgis Municipal Water Works	Mile 871.4 of Ohio River	Union

Delete the existing Table B, which begins after line 5 on page 7 and continues through page 22.

Page 22
Section 5(3)
Line 2

After "(3)", insert the following:

(a) Table C in this section lists waters that have:
1. A designated use of CAH or OSRW; or
2. Exceptions to specific criteria in 401 KAR 10:031.

(b) All other criteria in 401 KAR 10:031 applicable to the listed use designations shall apply to surface waters listed in Table C in this section.

(c)1. DWS use shall apply to all waters listed in Table C in this section.
2. DWS use criteria found in 401 KAR 10:031, Section 6, shall apply only at the surface water intakes listed in Table B of this section.

Delete the remainder of subsection (3) in its entirety, through "to these surface waters".

Page 22
Section 5(3)
Line 5

After "these surface waters.", insert the following:

Table C: SURFACE WATER USE DESIGNATIONS				
Stream	Zone (Descriptive and water body or segment river miles [RM])	County	Use Designation	Exceptions to Specific Criteria
BIG SANDY RIVER BASIN				
Hobbs Fork of Pigeonroost Fork of	Mouth to Headwaters (0.0-3.9)	Martin	WAH, PCR, SCR,	-

Table C: SURFACE WATER USE DESIGNATIONS				
Stream	Zone (Descriptive and water body or segment river miles [RM])	County	Use Designation	Exceptions to Specific Criteria
Wolf Creek			OSRW	
Lower Pigeon Branch of Elkhorn Creek	Left Fork to Headwaters (0.6-1.9)	Pike	WAH, PCR, SCR, OSRW	-
Paint Creek of Levisa Fork	Levisa Fork (0.0-8.3)	Johnson	CAH, PCR, SCR	-
Russell Fork of Levisa Fork of Big Sandy River	Clinch Field RR Yard off HWY 80 to Virginia State Line (15.0-16.5)	Pike	WAH, PCR, SCR, OSRW	-
Toms Branch of Elkhorn Creek	Mouth to Headwaters (0.0-1.6)	Pike	WAH, PCR, SCR, OSRW	-
Unidentified Tributary of Hobbs Fork	Hobbs Fork of Pigeonroost Fork to Headwaters (0.0-0.55)	Martin	WAH, PCR, SCR, OSRW	-
LAKES AND RESERVOIRS				
Paintsville	Entire reservoir	Johnson	WAH, CAH, PCR, SCR	
LITTLE SANDY RIVER BASIN				
Arabs Fork of Big Sinking Creek	Clay Fork to Headwaters (0.0-5.1)	Elliott	WAH, PCR, SCR, OSRW	-
Big Caney Creek	Grayson Lake to source (1.8-15.3)	Elliott/ Rowan	CAH, PCR, SCR, OSRW	-
Big Sinking Creek of Little Sandy River	SR 986 to Clay Fork and Arab Fork (6.1-15.2)	Carter/ Elliott	WAH, PCR, SCR, OSRW	-
Laurel Creek of Little Sandy River	Little Sandy River to Carter School Rd (0.0-7.6)	Elliott/ Rowan	CAH, PCR, SCR,	-
Laurel Creek of Little Sandy River	Carter School Rd Bridge to Headwaters (7.6-14.7)	Elliott/ Rowan	CAH, PCR, SCR, OSRW	-
Meadow Branch of Little Fork of Little Sandy River	Mouth to Headwaters (0.0-1.4)	Elliott	WAH, PCR, SCR, OSRW	-
Middle Fork of Little Sandy River	Mouth to Sheepskin Branch (0.0-3.4)	Elliott	WAH, PCR, SCR, OSRW	-
Nichols Fork of Little Fork of Little	Green Branch to Headwaters	Elliott	WAH, PCR, SCR,	-

Table C: SURFACE WATER USE DESIGNATIONS				
Stream	Zone (Descriptive and water body or segment river miles [RM])	County	Use Designation	Exceptions to Specific Criteria
Sandy River	(0.0-2.0)		OSRW	
LAKES AND RESERVOIRS				
Greenbo	Entire Reservoir	Greenup	WAH, CAH, PCR, SCR	-
LICKING RIVER BASIN				
Blackwater Creek of Licking River	Eaton Creek to Greasy Fork (3.8-117)	Morgan	WAH, PCR, SCR, OSRW	-
Blanket Creek of Licking River	Mouth to Unidentified Tributary (0.0-1.9)	Pendleton	WAH, PCR, SCR, OSRW	-
Botts Fork of Brushy Fork of Licking River	Mouth to Landuse Change (0.0-2.1)	Menifee	WAH, PCR, SCR, OSRW	-
Bowman Creek	Mouth to Unidentified Tributary (0.0-6.0)	Kenton	WAH, PCR, SCR, OSRW	-
Brushy Fork of Meyers Creek	Cave Run Lake Backwaters to Headwaters (0.7-5.6)	Menifee	WAH, PCR, SCR, OSRW	-
Brushy Fork of South Fork of Grassy Creek	Mouth to Headwaters (0.0-5.8)	Pendleton	WAH, PCR, SCR, OSRW	-
Bucket Branch of North Fork of Licking River	Mouth to Headwaters (0.0-1.9)	Morgan	WAH, PCR, SCR, OSRW	-
Cedar Creek of Licking River	Mouth to North Branch of Cedar Creek (0.0-1.7)	Robertson	WAH, PCR, SCR, OSRW	-
Craney Creek	Source to North Fork of Licking River (0.0-11.2)	Rowan/ Morgan	CAH, PCR, SCR, OSRW	-
Devils Fork of North Fork of Licking River	Mouth to Headwaters (0.0-8.5)	Elliott/ Morgan	WAH, PCR, SCR, OSRW	-
Flour Creek of Licking River	Mouth to Unidentified Tributary (0.0-2.2)	Pendleton	WAH, PCR, SCR, OSRW	-
Grovers Creek of	Kincaid Lake Backwaters	Bracken/	WAH, PCR,	-

Table C: SURFACE WATER USE DESIGNATIONS				
Stream	Zone (Descriptive and water body or segment river miles [RM])	County	Use Designation	Exceptions to Specific Criteria
Kincaid Creek	to Unidentified Tributary (0.5-3.4)	Pendleton	SCR, OSRW	
Licking River	River Mile 175.6 (U.S. Highway 60 Bridge) to River Mile 180.8 (Cave Run Lake Dam (175.6-180.8)	Bath/ Rowan	CAH, PCR, SCR	-
Licking River	River Mile 159.5 [4] (Hwy 211) to River Mile 170.6 (Unnamed Road off Slatey Point Road)	Bath/ Rowan/ Fleming	WAH, PCR, SCR, OSRW	-
Licking River	River Mile 19.3 (Hwy 536 Bridge) to River Mile 117.6 (1.3 river miles above Fishtrap Creek)	Kenton/ Campbell/ Pendleton/ Harrison/ Robertson/ Fleming	WAH, PCR, SCR, OSRW	-
Minor Creek of Craney Creek	Mouth to river mile 2.8 (0.0-2.8)	Morgan/ Rowan	CAH, PCR, SCR	-
North Fork of Licking River	Cave Run Lake Backwaters to Devils Fork (8.4-13.4)	Morgan	WAH, PCR, SCR, OSRW	-
Sawyers Fork of Cruises Creek	Mouth to Headwaters (0.0-3.3)	Kenton	WAH, PCR, SCR, OSRW	-
Slabcamp Creek of Craney Creek of Licking River	Mouth to Headwaters (0.0-3.7)	Rowan	CAH, PCR, SCR, OSRW	-
Slate Creek of Licking River	Mouth to Mill Creek (0.0-13.55)	Bath	WAH, PCR, SCR, OSRW	-
South Fork Grassy Creek of Grassy Creek of Licking River	Mouth to Greasy Creek (0.0-19.8)	Kenton/ Pendleton	WAH, PCR, SCR, OSRW	-
Unidentified Tributary of Shannon Creek of North Fork of Licking River	Mouth to Headwaters 0.0-2.2)	Mason	WAH, PCR, SCR, OSRW	-
Welch Fork of	Mouth to First Unnamed	Menifee	WAH, PCR,	-

Table C: SURFACE WATER USE DESIGNATIONS				
Stream	Zone (Descriptive and water body or segment river miles [RM])	County	Use Designation	Exceptions to Specific Criteria
Brushy Fork of Licking River	Tributary (0.0-1.0)		SCR, OSRW	
West Creek of Licking River	Mouth to Headwaters (0.0-9.8)	Harrison/ Robertson	WAH, PCR, SCR, OSRW	-
KENTUCKY RIVER BASIN				
Backbone Creek of Sixmile Creek of Kentucky River	Mouth to Scrabble Creek (0.0-1.65)	Franklin/ Henry/ Shelby	WAH, PCR, SCR, OSRW	-
Bear Branch of North Fork of Kentucky River	Above Sediment Pond to Headwaters (0.3-1.2)	Perry	WAH, PCR, SCR, OSRW	-
Big Double Creek of Red Bird River	Mouth to Confluence of Left and Right Forks of Big Double Creek (0.0-4.04)	Clay	WAH, PCR, SCR, OSRW	-
Bill Branch of Laurel Fork of Greasy Creek	Mouth to Right Fork and Left Fork Creek (0.0-0.3)	Leslie	WAH, PCR, SCR, OSRW	-
Billey Fork of Millers Creek	Land Use Change to Headwaters (2.6-8.8)	Lee/Elliott	WAH, PCR, SCR, OSRW	-
Bill Oak Branch of Left Fork of Buffalo Creek	Mouth to Headwaters (0.0-0.3)	Owsley	WAH, PCR, SCR, OSRW	-
Buffalo Creek of South Fork of Kentucky River	Mouth to Right Fork and Left Fork (0.0-1.6)	Owsley	WAH, PCR, SCR, OSRW	-
Cavanaugh Creek	South Fork of Station Camp Creek to Foxtown Rd (0.0-8.3)	Jackson	WAH, PCR, SCR, OSRW	-
Cherry Run of Boyd Run of North Elkhorn Creek	Mouth to Boyd Run (0.0-0.9)	Scott	WAH, PCR, SCR, OSRW	-
Chester Creek of Middle Fork of Red River	Mouth to Headwaters (0.0-2.8)	Wolfe	WAH, PCR, SCR, OSRW	-
Chimney Top Creek of Red River	Basin (0.0-4.6)	Wolfe	CAH, PCR, SCR	-
Clear Creek of Kentucky River	Mouth to East Fork Clear Creek (0.0-9.0)	Woodford	WAH, PCR, SCR,	-

Table C: SURFACE WATER USE DESIGNATIONS				
Stream	**Zone (Descriptive and water body or segment river miles [RM])**	**County**	**Use Designation**	**Exceptions to Specific Criteria**
			OSRW	
Clemons Fork of Buckhorn Creek	**Mouth to Headwaters (0.0-4.8)**	**Breathitt**	**WAH, PCR, SCR, OSRW**	-
Coles Fork of Buckhorn Creek	**Mouth to Headwaters (0.0-6.2)**	**Breathitt**	**WAH, PCR, SCR, OSRW**	-
Craig Creek of Kentucky River	**Mouth (Kentucky River Backwaters) to Unidentified Tributary (0.0- 2.7)**	**Woodford**	**WAH, PCR, SCR, OSRW**	-
Deep Ford Branch of Cutshin Creek	**Above Pond to Headwaters (0.3-1.35)**	**Leslie**	**WAH, PCR, SCR, OSRW**	-
Dix River	**Mouth (Kentucky River) to River Mile 3.1 (Herrington Lake Dam) (0.0-3.1)**	**Garrard/ Mercer**	**CAH, PCR, SCR**	-
Dog Fork of Swift Camp Creek	**Basin**	**Wolfe**	**CAH, PCR, SCR**	-
Drennon Creek of Kentucky River	**Fivemile Creek to Town Branch (8.7-12.2)**	**Henry**	**WAH, PCR, SCR, OSRW**	-
East Fork of Indian Creek of Indian Creek of Red River	**Headwaters East Fork of Indian Creek to Indian Creek (0.0-9.0)**	**Menifee**	**CAH, PCR, SCR OSRW**	-
Elisha Creek of Red Bird River	**Land Use Change (Residential) to the confluence of Right Fork and Middle Fork Elisha Creek (0.8-1.8)**	**Leslie**	**WAH, PCR, SCR, OSRW**	-
Emily Run of Drennon Creek	**Mouth to Unidentified Tributary (0.0-4.0)**	**Henry**	**WAH, PCR, SCR, OSRW**	-
Evans Fork of Billey Fork of Millers Creek	**Mouth to Headwaters (0.0-3.0)**	**Estill**	**WAH, PCR, SCR, OSRW**	-
Falling Rock Branch of Clemons Fork of Buckhorn Creek	**Mouth to Headwaters (0.0-0.7)**	**Breathitt**	**WAH, PCR, SCR, OSRW**	-

Table C: SURFACE WATER USE DESIGNATIONS				
Stream	Zone (Descriptive and water body or segment river miles [RM])	County	Use Designation	Exceptions to Specific Criteria
Gilberts Creek of Kentucky River	Mouth to Unidentified Tributary (0.0-2.6)	Anderson	WAH, PCR, SCR, OSRW	-
Gladie Creek of Red River	Basin	Menifee	CAH, PCR, SCR	-
Gladie Creek of Red River	Land Use Change to Long Branch (0.5-7.25)	Menifee	CAH, PCR, SCR, OSRW	-
Goose Creek of South Fork of Kentucky River	Mouth to Laurel Creek (0.0-9.1)	Clay/Leslie	WAH, PCR, SCR, OSRW	-
Griers Creek of Kentucky River	Kentucky River Backwaters to Unidentified Tributary (0.1-3.5)	Woodford	WAH, PCR, SCR, OSRW	-
Grindstone Creek of Kentucky River	Kentucky River Backwaters to Headwaters (0.1-1.9)	Franklin	WAH, PCR, SCR, OSRW	-
Hardwick Creek of Red River	Mouth to Little Hardwick Creek (0.0-3.25)	Powell	WAH, PCR, SCR, OSRW	-
Hell For Certain of Middle Fork of Red River	Mouth to Big Fork (0.0-2.1)	Leslie	WAH, PCR, SCR, OSRW	-
Hines Creek of Kentucky River	Kentucky River Backwaters to confluence with Unidentified Tributary (0.1-1.9)	Madison	WAH, PCR, SCR, OSRW	-
Honey Branch of Greasy Creek of Middle Fork of Kentucky River	Mouth to Headwaters (0.0-1.35)	Leslie	WAH, PCR, SCR, OSRW	-
Hopper Cave Branch of Cavanaugh Creek	Mouth to Headwaters (0.0-1.8)	Jackson	WAH, PCR, SCR, OSRW	-
Indian Creek of Eagle Creek	Mouth to Headwaters (0.0-5.4)	Carroll	WAH, PCR, SCR, OSRW	-
Indian Creek of Red River	River Mile 1.25 (East Fork of Indian Creek) to River Mile 5.2 (0.3 river	Menifee	CAH, PCR, SCR	-

Table C: SURFACE WATER USE DESIGNATIONS				
Stream	Zone (Descriptive and water body or segment river miles [RM])	County	Use Designation	Exceptions to Specific Criteria
	miles below Bear Branch)			
Indian Fork of Sixmile Creek of Kentucky River	Mouth to Headwaters (0.0-3.3)	Shelby	WAH, PCR, SCR, OSRW	-
John Carpenter Fork of Clemons Fork of Buckhorn Creek	Mouth to Headwaters (0.0-1.2)	Breathitt	WAH, PCR, SCR, OSRW	-
Katies Creek of Red Bird River	Mouth to Headwaters (0.0-4.0)	Clay	WAH, PCR, SCR, OSRW	-
Laurel Fork of Left Fork Buffalo Creek of Buffalo Creek	Cortland Fork to Big Branch (0.0-3.75)	Owsley	WAH, PCR, SCR, OSRW	-
Left Fork of Big Double Creek of Kentucky River	Mouth to Headwaters (0.0-1.5)	Clay	WAH, PCR, SCR, OSRW	-
Line Fork of North Fork of Kentucky River	Defeated Creek to Headwaters (12.2-28.6)	Letcher	WAH, PCR, SCR, OSRW	-
Little Middle Fork of Elisha Creek of Red Bird River	Mouth to Headwaters (0.0-0.75)	Leslie	WAH, PCR, SCR, OSRW	-
Little Millseat Branch of Clemons Fork of Buckhorn Creek	Mouth to Headwaters (0.0-1.2)	Breathitt	WAH, PCR, SCR, OSRW	-
Little Sixmile Creek of Sixmile Creek of Kentucky River	Mouth to Headwaters (0.0-5.3)	Henry	WAH, PCR, SCR, OSRW	-
Lower Howard Creek of Kentucky River	Mouth to West Fork (0.5-6.6)	Clark	WAH, PCR, SCR, OSRW	-
Lulbegrud Creek of Red River	Mouth to Falls Branch (0.0-7.3)	Clark/ Powell	WAH, PCR, SCR, OSRW	-
Middle Fork of Kentucky River	Mouth to Upper Twin Creek (0.0-12.7)	Lee/ Owsley	WAH, PCR, SCR, OSRW	-
Middle Fork of Kentucky River	Hurts Creek to Greasy Creek (75.6-85.8)	Leslie	WAH, PCR, SCR,	-

Table C: SURFACE WATER USE DESIGNATIONS				
Stream	Zone (Descriptive and water body or segment river miles [RM])	County	Use Designation	Exceptions to Specific Criteria
			OSRW	
Middle Fork of Red River	River Mile 10.7 (0.7 river miles below Sinking Fork) to Headwaters (15.3)	Powell	CAH, PCR, SCR	-
Middle Fork of Red River	South Fork of Red River to Natural Bridge State Park Lake (1.8-7.2)	Powell	CAH, PCR, SCR, OSRW	-
Mikes Branch of Laurel Fork of Left Fork of Buffalo Creek	Mouth to Headwaters (0.0-0.7)	Owsley	WAH, PCR, SCR, OSRW	-
Mill Creek of Kentucky River	Near Mouth to Headwaters (0.0-1.85)	Owen	WAH, PCR, SCR, OSRW	-
Millseat Branch of Clemons Fork of Buckhorn Creek	Mouth to Headwaters (0.0-1.85)	Breathitt	WAH, PCR, SCR, OSRW	-
Muddy Creek of Kentucky River	Elliston, Kentucky to Viney Fork (13.8-20.65)	Madison	WAH, PCR, SCR, OSRW	-
Musselman Creek of Eagle Creek	Mouth to Headwaters (0.0-9.0)	Grant	WAH, PCR, SCR, OSRW	-
Parched Corn Creek	Source to Red River (0.0-2.25)	Wolfe	CAH, PCR, SCR	-
Red River	River Mile 70.4 (SR 746) to River Mile 50.3 (0.1 Miles below Auxier Branch)	Menifee/ Wolfe	WAH, PCR, SCR, OSRW	-
Red Bird River of South Fork of Kentucky River	Mouth to Big Creek (0.0-15.3)	Clay	WAH, PCR, SCR, OSRW	-
Right Fork of Buffalo Creek of Kentucky River	Mouth to Headwaters (0.0-2.1)	Owsley	WAH, PCR, SCR, OSRW	-
Right Fork of Elisha Creek of Redbird River	Mouth to Headwaters (0.0-3.3)	Leslie	WAH, PCR, SCR, OSRW	-
Roaring Fork of Lewis Fork of Buckhorn Creek	Mouth to Headwaters (0.0-0.9)	Breathitt	WAH, PCR, SCR, OSRW	-

Table C: SURFACE WATER USE DESIGNATIONS				
Stream	Zone (Descriptive and water body or segment river miles [RM])	County	Use Designation	Exceptions to Specific Criteria
Rock Lick Creek	Mouth to Headwaters (0.0-9.6)	Jackson	WAH, PCR, SCR, OSRW	-
Sand Ripple Creek of Kentucky River	Kentucky River Backwaters to Headwaters (0.1-3.9)	Henry	WAH, PCR, SCR, OSRW	-
Severn Creek of Kentucky River	Kentucky River Backwaters to North Fork of Severn Creek (1.35-3.0)	Owen	WAH, PCR, SCR, OSRW	-
Shaker Creek of Kentucky River	Near Mouth to Shawnee Run (0.1-1.4)	Mercer	WAH, PCR, SCR, OSRW	-
Shelly Rock Fork of Millseat Branch of Clemons Fork	Mouth to Headwaters (0.0-0.6)	Breathitt	WAH, PCR, SCR, OSRW	-
Sixmile Creek of Kentucky River	Little Sixmile Creek to Dam (7.1-15.3)	Henry	WAH, PCR, SCR, OSRW	-
South Fork of Kentucky River	Mouth to Sexton Creek (0.0-27.8)	Owsley	WAH, PCR, SCR, OSRW	-
South Fork of Red River	Mouth to Sandlick Fork (0.0-4.2)	Powell	WAH, PCR, SCR, OSRW	-
South Fork of Station Camp Creek of Kentucky River	Mouth to Rock Lick Creek (0.0-9.7)	Jackson	WAH, PCR, SCR, OSRW	-
Spruce Branch of Redbird River	Mouth to Headwaters (0.0-1.0)	Clay	WAH, PCR, SCR, OSRW	-
Station Camp Creek of Kentucky River	Landuse Change (Crooked Cr.) to South Fork of Station Camp Creek (3.3-22.7)	Estill	WAH, PCR, SCR, OSRW	-
Steeles Run of Elkhorn Creek	Mouth to Unidentified Tributary (0.0-4.2)	Fayette	WAH, PCR, SCR, OSRW	-
Steer Fork of War Fork of Station Camp Creek	Mouth to Headwaters (0.0-2.7)	Jackson	CAH, PCR, SCR, OSRW	-

Table C: SURFACE WATER USE DESIGNATIONS				
Stream	Zone (Descriptive and water body or segment river miles [RM])	County	Use Designation	Exceptions to Specific Criteria
Sturgeon Creek of Kentucky River	Duck Fork to Little Sturgeon Creek (1.3-13.7)	Lee/ Owsley	WAH, PCR, SCR, OSRW	-
Sugar Creek of Redbird River	Landuse Change to Headwaters (0.6-5.4)	Leslie	WAH, PCR, SCR, OSRW	-
Sulphur Lick Creek of Elkhorn Creek	Mouth to Headwaters (0.0-5.2)	Franklin	WAH, PCR, SCR, OSRW	
Swift Camp Creek	Red River to Source (0.0-13.9)	Wolfe	CAH, PCR, SCR	-
Unidentified Tributary of Cawood Branch of Beech Fork	Mouth to Headwaters (0.0-2.1)	Leslie	WAH, PCR, SCR, OSRW	-
Unidentified Tributary of Cedar Creek of Kentucky River	Mouth to Headwaters (0.0-1.4)	Owen	WAH, PCR, SCR, OSRW	-
Unidentified Tributary of Glenns Creek of Kentucky River	Mouth to Headwaters (0.0-1.9)	Woodford	WAH, PCR, SCR, OSRW	-
Unidentified Tributary of Jacks Creek of Kentucky River	Mouth to Headwaters (0.0-1.15)	Madison	WAH, PCR, SCR, OSRW	-
Unidentified Tributary of Kentucky River	Mouth at Kentucky River Backwaters to Land Use Change (0.1-1.4)	Franklin	WAH, PCR, SCR, OSRW	-
Unidentified Tributary of Line Fork of North Fork of Kentucky River (LCW)	Mouth to Headwaters (0.0-0.6)	Letcher	WAH, PCR, SCR, OSRW	-
War Fork of Station Camp Creek	Mouth to Headwaters (0.0-13.8)	Jackson	CAH, PCR, SCR, OSRW	-
War Fork of Station Camp Creek	Basin above River Mile 1.9 (0.3 river miles below Tarpin Lick Branch (2.5))	Jackson	CAH, PCR, SCR	-

Table C: SURFACE WATER USE DESIGNATIONS				
Stream	Zone (Descriptive and water body or segment river miles [RM])	County	Use Designation	Exceptions to Specific Criteria
Watches Fork of Laurel Fork of Left Fork of Buffalo Creek	Mouth to Headwaters (0.0-1.0)	Owsley	WAH, PCR, SCR, OSRW	-
Wolfpen Creek of Red River	Mouth to Headwaters (0.0-3.6)	Menifee	WAH, PCR, SCR, OSRW	-
LAKES AND RESERVOIRS				
Bert Combs	Entire Reservoir	Clay	WAH, CAH, PCR, SCR	-
Fishpond	Entire Reservoir	Letcher	WAH, CAH, PCR, SCR	-
Mill Creek	Entire Reservoir	Wolfe	WAH, CAH, PCR, SCR	-
SALT RIVER BASIN				
Brashears Creek of Salt River	Guist Creek to Bullskin and Clear Creek (13.0-25.9)	Shelby/ Spencer	WAH, PCR, SCR, OSRW	-
Cedar Creek of Salt River	Mouth to Greens Branch (0.0-5.2)	Bullitt	WAH, PCR, SCR, OSRW	-
Chaplin River of Salt River	Thompson Creek to Cornishville, KY (40.9-54.2)	Washington	WAH, PCR, SCR, OSRW	-
Doctors Fork of Chaplin River	Mouth to Begley Branch (0.0-3.8)	Boyle	WAH, PCR, SCR, OSRW	-
Guist Creek of Brashears Creek	Mouth to Jeptha Creek (0.0-15.7)	Spencer	WAH, PCR, SCR, OSRW	-
Harts Run of Wilson Creek of Rolling Fork of Salt River	Mouth to Headwaters (0.0-1.8)	Bullitt	WAH, PCR, SCR, OSRW	-
Indian Creek of Thompson Creek of Chaplin River of Salt River	Mouth to Unidentified Tributary (0.0-2.9	Mercer	WAH, PCR, SCR, OSRW	-

Table C: SURFACE WATER USE DESIGNATIONS				
Stream	Zone (Descriptive and water body or segment river miles [RM])	County	Use Designation	Exceptions to Specific Criteria
Lick Creek of Long Lick Creek of Beech Fork of Salt River	Mouth to 0.1miles below Dam (0.0-4.1)	Washington	WAH, PCR, SCR, OSRW	-
Otter Creek of Rolling Fork of Salt River	Landuse Change to confluence of East Fork and Middle Fork Otter Creek (1.7-2.9)	Larue	~~[C]~~ WAH, PCR, SCR, OSRW	-
Overalls Creek of Wilson Creek of Rolling Fork of Salt River	Mouth to Headwaters of Middle Fork of Overalls Creek (0.0-3.2)	Bullitt	WAH, PCR, SCR, OSRW	-
Paddy's Run	Mouth (Ohio River) to headwaters	Jefferson	PCR, SCR	401 KAR 10:031, Section 2(1)(d) and 2(2) do not apply.
Rolling Fork of Salt River	River Mile 53.6 (0.8 mi upstream of Stiles Rd Bridge) to River Mile 62.5 (0.5 mi upstream of Otter Cr)	Larue/ Nelson	WAH, PCR, SCR, OSRW	-
Salt Lick Creek of Rolling Fork of Salt River	Mouth to Headwaters (0.0-8.6)	Larue, Marion	WAH, PCR, SCR, OSRW	-
Sulphur Creek of Chaplin River	Mouth to confluence of Cheese Lick and Brush Creek (0.0-10.0)	Anderson/ Mercer/ Washington	WAH, PCR, SCR, OSRW	-
Unidentified Tributary of Glens Creek of Chaplin River	Mouth to Headwaters (0.0-2.3)	Washington	WAH, PCR, SCR, OSRW	-
West Fork of Otter Creek of Rolling Fork of Salt River	Mouth to Headwaters (0.0-5.1)	Larue	WAH, PCR, SCR, OSRW	-
Wilson Creek of Rolling Fork of Salt River	Mouth to Headwaters (0.0-18.4)	Bullitt/ Nelson	WAH, PCR, SCR, OSRW	-
GREEN RIVER BASIN				
Barren River	Green River to River Mile	Butler/	WAH, PCR,	-

Table C: SURFACE WATER USE DESIGNATIONS				
Stream	Zone (Descriptive and water body or segment river miles [RM])	County	Use Designation	Exceptions to Specific Criteria
	Lock and Dam #1 to Green River (0.0-15.1)	Warren	SCR, OSRW	
Beaverdam Creek	Source to Green River (14.5-0.0)	Edmonson	CAH, PCR, SCR, OSRW	-
Cane Run of Nolin River	Nolin River Lake Backwaters to Headwaters (0.8-6.5)	Hart	WAH, PCR, SCR, OSRW	-
Caney Fork of Peter Creek	Mouth to Headwaters (0.0-6.7)	Barren	WAH, PCR, SCR, OSRW	-
Clifty Creek of Rough River	Barton Run to Western Kentucky Parkway (7.5-17.3)	Grayson	WAH, PCR, SCR, OSRW	-
Clifty Creek of Wolf Lick Creek	Little Clifty Creek to Sulphur Lick 0.0-13.4)	Todd	WAH, PCR, SCR, OSRW	-
Double Sink Spring	Basin Outside Mammoth Cave National Park Boundary	Edmonson/ Barren	CAH, PCR, SCR, OSRW	-
East Fork of Little Barren River	Red Lick Creek to Flat Creek (18.9-20.6)	Metcalfe	WAH, PCR, SCR, OSRW	-
Echo River	Basin Outside Mammoth Cave National Park Boundary (underground system)	Edmonson	CAH, PCR, SCR, OSRW	-
Ellis Fork of Damron Creek	Mouth to Headwaters (0.0-2.2)	Adair/ Russell	WAH, PCR, SCR, OSRW	-
Falling Timber Creek of Skaggs Creek	Landuse Change to Headwaters (10.8-15.2)	Barren/ Metcalfe	WAH, PCR, SCR, OSRW	-
Fiddlers Creek of North Fork of Rough River	Mouth to Headwaters (0.0-5.9)	Breckinridge	WAH, PCR, SCR, OSRW	-
Forbes Creek of Buck Creek of East Fork of Pond River	Mouth to Unidentified Tributary (0.0-4.1)	Christian	WAH, PCR, SCR, OSRW	-
Ganter Spring	Basin Outside Mammoth Cave National Park	Edmonson	CAH, PCR, SCR,	-

Table C: SURFACE WATER USE DESIGNATIONS				
Stream	Zone (Descriptive and water body or segment river miles [RM])	County	Use Designation	Exceptions to Specific Criteria
	Boundary		OSRW	
Gasper River of Barren River	Clear Fork to Wiggington Creek (17.2-35.6)	Logan/ Warren	WAH, PCR, SCR, OSRW	-
Goose Creek of Green River	Mouth to Little Goose Creek (0.0-8.5)	Casey/ Russell	WAH, PCR, SCR, OSRW	-
Green River	River Mile 210.6 (eastern Mammoth Cave National Park Boundary to River Mile 309.1 (Green River Lake Dam)	Hart/Taylor/ Green	WAH, PCR, SCR, OSRW	-
Green River	River Mile 185.0 (western Mammoth Cave National Park Boudary) to River Mile 210.6 (eastern Mammoth Cave National Park Boundary)	Edmonson/ Hart	WAH, PCR, SCR, OSRW	-
Green River	Downstream Mammoth Cave National Park Boundary to Lynn Camp Creek (185.0-250.3)	Edmonson/ Hart	WAH, PCR, SCR, OSRW	-
Green River	River Mile 149.7 (1.0 river mile below Lock and Dam #4) to River Mile 170.2 (Lock and Dam #5)	Butler/ Warren	WAH, PCR, SCR, OSRW	-
Halls Creek of Rough River	Unidentified Tributary to Headwaters (4.8-9.6)	Ohio	WAH, PCR, SCR, OSRW	-
Lick Creek of West Fork of Drakes Creek	Mouth to Headwaters (0.0-10.2)	Simpson	CAH, PCR, SCR, OSRW	-
Linders Creek of Rough River	Mouth to Sutzer Creek (0.0-7.9)	Hardin	WAH, PCR, SCR, OSRW	-
Little Beaverdam Creek of Green River	Mouth to SR 743 (0.0-11.4)	Edmonson/ Warren	WAH, PCR, SCR, OSRW	-
Little Short Creek of Rough River	Mouth to Headwaters (0.0-3.1)	Grayson	WAH, PCR, SCR, OSRW	-

Table C: SURFACE WATER USE DESIGNATIONS				
Stream	Zone (Descriptive and water body or segment river miles [RM])	County	Use Designation	Exceptions to Specific Criteria
Lynn Camp Creek	Green River to Source (0.0-8.3)	Hart	CAH, PCR, SCR	-
Lynn Camp Creek of Green River	Mouth to Lindy Creek (0.0-8.5)	Hart	CAH, PCR, SCR, OSRW	-
McFarland Creek of West Fork of Pond River	Grays Branch to Unidentified Tributary (1.5-5.0)	Christian	WAH, PCR, SCR, OSRW	-
McCoy Spring	Basin Outside Mammoth Cave National Park Boundary	Hart	CAH, PCR, SCR, OSRW	-
Meeting Creek of Rough River	Little Meeting Creek to Petty Branch (5.2-14.0)	Grayson/ Hardin	WAH, PCR, SCR, OSRW	-
Mile 205.7 Spring	Basin Outside Mammoth Cave National Park Boundary	Hart	CAH, PCR, SCR, OSRW	-
Muddy Creek of Caney Creek of Rough River	Landuse Change to Headwaters (13.5-15.5)	Ohio	WAH, PCR, SCR, OSRW	-
Nolin River	River Mile 7.7 (Nolin Lake Dam) to Green River (0.0-7.7)	Edmonson	CAH,WAH, PCR, SCR	-
North Fork of Rough River	Buffalo Creek to Reservoir Dam (22.1 - 26.9)	Breckinridge	WAH, PCR, SCR, OSRW	-
Peter Creek of Barren River	Caney Fork to Dry Fork (11.6-18.5)	Barren	WAH, PCR, SCR, OSRW	-
Pike Spring	Basin Outside Mammoth Cave National Park Boundary	Edmonson	CAH, PCR, SCR, OSRW	-
Pond Run of Rough River	Landuse Change to Headwaters (1.4-6.8)	Breckinridge/Ohio	WAH, PCR, SCR, OSRW	-
Rough River	Linders Creek to Vertrees Creek (138.0-149.4	Hardin	WAH, PCR, SCR, OSRW	-
Rough River	River Mile 89.6 to Rough River Lake Dam to 90.4	Ohio/ Grayson	CAH,WAH, PCR, SCR	-
Rough River	River Mile 74.5 to River	McLean/	CAH, PCR,	-

Table C: SURFACE WATER USE DESIGNATIONS				
Stream	Zone (Descriptive and water body or segment river miles [RM])	County	Use Designation	Exceptions to Specific Criteria
	Mile 74.2 (Hwy 54 Bridge)	Ohio	SCR	
Roundstone Creek of Nolin River	Hwy 1140 (River Mile 3.8) to Headwaters (River Mile 10.25)	Hart	CAH, PCR, SCR	-
Running Spring	Basin Outside Mammoth Cave National Park Boundary	Edmonson	CAH, PCR, SCR, OSRW	-
Russell Creek of Green River	Mouth to Columbia WWTP (0.0-40.0)	Green/ Adair	WAH, PCR, SCR, OSRW	-
Russell Creek of Green River	Reynolds Creek to confluence with Hudson Creek and Mount Olive Creek (56.9 -66.3)	Adair, Russell	WAH, PCR, SCR, OSRW	-
Sixes Creek of Indian Camp Creek	Wild Branch to Headwaters (2.0-7.5)	Ohio	WAH, PCR, SCR, OSRW	-
Suds Spring	Basin Outside Mammoth Cave National Park Boundary	Hart/ Barren	CAH, PCR, SCR, OSRW	-
Sulphur Branch of Alexander Creek	Mouth to Headwaters (0.0-3.0)	Edmonson	WAH, PCR, SCR, OSRW	-
Thompson Branch	Webb Branch to Tennessee State Line (0.3-1.5)	Simpson	WAH, PCR, SCR, OSRW	-
Trammel Fork of West Fork of Drakes Creek	River Mile 30.6 (Kentucky/Tennessee State Line) to Hwy 31E (River Mile 23.8)	Allen	CAH, PCR, SCR,	-
Trammel Fork of West Fork of Drakes Creek	Mouth to Tennessee State Line (0.0-30.6)	Allen/ Warren	CAH, PCR, SCR, OSRW	-
Turnhole Spring	Basin Outside Mammoth Cave National Park Boundary	Edmonson/ arren	CAH, PCR, SCR, OSRW	-
Underground River System	Mammoth Cave National Park	Edmonson/ Hart/Barre n	CAH, PCR, SCR, OSRW	-
Unidentified Tributary of Green	Landuse Change to Headwaters (1.7-3.2)	Adair	WAH, PCR, SCR,	-

Table C: SURFACE WATER USE DESIGNATIONS				
Stream	Zone (Descriptive and water body or segment river miles [RM])	County	Use Designation	Exceptions to Specific Criteria
River			OSRW	
Unidentified Tributary of White Oak Creek	Hovious Rd Crossing to SR 76 (0.0-2.1)	Adair	WAH, PCR, SCR, OSRW	-
West Fork of Pond River	Unidentified Tributary to East Branch of Pond River (12.45 -22.5)	Christian	WAH, PCR, SCR, OSRW	-
TRADEWATER RIVER BASIN				
East Fork of Flynn Fork of Tradewater River	Landuse Change (US Hwy 62) to Headwaters (2.15-4.6)	Caldwell	WAH, PCR, SCR, OSRW	-
Piney Creek of Tradewater River	Lake Beshear Backwaters to Headwaters (4.5-10.2)	Caldwell, Christian	WAH, PCR, SCR, OSRW	-
Sandlick Creek of Tradewater River	Camp Creek to Headwaters (4.5-8.6)	Christian	WAH, PCR, SCR, OSRW	-
Tradewater River	Dripping Springs Branch to Buntin Lake Dam (126.2-133.9)	Christian	WAH, PCR, SCR, OSRW	-
Unidentified Tributary of Piney Creek of Tradewater River	Mouth to Headwaters (0.0-2.9)	Caldwell	WAH, PCR, SCR, OSRW	-
Unidentified Tributary of Sandlick Creek of Tradewater River	Mouth to Headwaters (0.0-1.4)	Christian	WAH, PCR, SCR, OSRW	-
LOWER CUMBERLAND RIVER BASIN				
Casey Creek	Mouth to headwaters (0.0-10.5	Trigg	CAH, PCR, SCR	-
Crooked Creek of Cumberland River	Energy Lake Backwaters to Headwaters (3.0-9.1)	Trigg	WAH, PCR, SCR, OSRW	-
Donaldson Creek of Cumberland River	Barkley Lake Backwaters to Unnamed Tributary	Trigg	WAH, PCR, SCR, OSRW	-
Elk Fork of Red River of Cumberland River	Tennessee State Line to Dry Branch (7.5-23.1)	Todd	WAH, PCR, SCR, OSRW	-
Skinframe Creek	Livingston Creek to (0.0-	Lyon	CAH, PCR,	-

Table C: SURFACE WATER USE DESIGNATIONS				
Stream	Zone (Descriptive and water body or segment river miles [RM])	County	Use Designation	Exceptions to Specific Criteria
	7.8)		SCR	
Sugar Creek of Cumberland River	Lick Creek to Unidentified Tributary (2.2-6.9)	Livingston	WAH, PCR, SCR, OSRW	-
Sulphur Spring Creek	Red River to Headwaters (0.0-9.1)	Simpson	CAH, PCR, SCR	-
West Fork of Red River	State Line to River Mile 29.0 (14.5-32.2)	Christian	CAH, PCR, SCR, OSRW	-
Whipporwill Creek	Red River to Headwatrs (0.0-45.4)	Logan/Todd	WAH, PCR, SCR, OSRW	-
UPPER CUMBERLAND RIVER BASIN				
Acorn Fork of Stinking Creek	Basin above River Mile 1.0 (1.0-3.3)	Knox	WAH, PCR, SCR, OSRW	-
Adams Branch of Pigeon Roost Creek	Basin	Whitley	WAH, PCR, SCR, OSRW	-
Archers Creek of Cumberland River	Basin (above RM 0.05 mi backwater at mouth)	Whitley	WAH, PCR, SCR, OSRW	-
Bad Branch of Poor Fork of Cumberland River	Basin	Letcher	CAH, PCR, SCR, OSRW	-
Bark Camp Creek of Cumberland River	Basin (above RM 0.1 backwater at mouth)	Whitley	CAH, PCR, SCR, OSRW	-
Barren Fork of Indian Creek	Basin	McCreary	PCR, SCR, OSRW	-
Beaver Creek of Cumberland River	Basin	McCreary	CAH, PCR, SCR, OSRW	-
Bee Lick Creek of Brushy Creek of Buck Creek	Mouth to Warren Branch (0.0-5.7)	Pulaski	WAH, PCR, SCR, OSRW	-
Bens Fork of Little Clear Creek	Basin	Bell	WAH, PCR, SCR, OSRW	-
Big Branch of	Basin above River Mile	McCreary	WAH, PCR,	-

Table C: SURFACE WATER USE DESIGNATIONS				
Stream	Zone (Descriptive and water body or segment river miles [RM])	County	Use Designation	Exceptions to Specific Criteria
Marsh Creek	0.8		SCR, OSRW	
Big Lick Branch of Cumberland River	Basin (above 1.1, Cumberland River backwaters)	Pulaski	WAH, PCR, SCR, OSRW	-
Blacksnake Branch of Brownies Creek	Basin	Bell	WAH, PCR, SCR, OSRW	-
Breedens Creek of Clover Fork of Cumberland River	Basin	Harlan	WAH, PCR, SCR, OSRW	-
Brices Creek of Road Fork of Stinking Creek	Basin	Knox	WAH, PCR, SCR, OSRW	-
Brownies Creek of Cumberland River	Basin above Blacksnake Branch (RM 10.3)	Harlan	WAH, PCR, SCR, OSRW	-
Brush Creek of Roundstone Creek	Wolf Creek to Reemergence of Sinking Creek (1.1-7.6)	Rockcastle	WAH, PCR, SCR, OSRW	-
Brushy Creek of Buck Creek	Mouth to Headwaters (0.0-16.5)	Pulaski	WAH, PCR, SCR, OSRW	-
Buck Creek of Cumberland River	River Mile 11.7 (Backwaters of Lake Cumberland) to RM 55.0 (0.8 RM upstream of confluence of Hurricane Creek)	Pulaski	WAH, PCR, SCR, OSRW	-
Buck Creek of Clear Fork of Cumberland River	Basin	Whitley	WAH, PCR, SCR, OSRW	-
Bucks Branch of Jellico Creek	Basin	Whitley	WAH, PCR, SCR, OSRW	-
Buffalo Creek of Laurel Fork of Clear Fork of Cumberland River	Basin above Kentucky/ Tennessee State Line	Whitley	WAH, PCR, SCR, OSRW	-
Bunches Creek of Cumberland River	Basin	Whitley	CAH, PCR, SCR,	-

Table C: SURFACE WATER USE DESIGNATIONS				
Stream	Zone (Descriptive and water body or segment river miles [RM])	County	Use Designation	Exceptions to Specific Criteria
			OSRW	
Campbell Branch of Jellico Creek	Basin	Whitley	WAH, PCR, SCR, OSRW	-
Cane Creek of Rockcastle River	Mouth to Dam (0.0-11.85)	Laurel	WAH, PCR, SCR, OSRW	-
Caney Creek of Left Fork of Straight Creek	Basin	Bell	WAH, PCR, SCR, OSRW	-
Cannon Creek of Yellow Creek	Basin above Cannon Creek Lake (RM 5.1)	Bell	WAH, PCR, SCR, OSRW	-
Clifty Creek of Brushy Creek of Buck Creek	Mouth to Rocky Branch (0.0-2.7)	Pulaski	WAH, PCR, SCR, OSRW	-
Clover Bottom Creek	Horse Lick Creek to River Mile 1.4	Jackson	CAH, PCR, SCR	-
Cogur Fork of Indian Creek	Basin	McCreary	CAH, PCR, SCR, OSRW	-
Coles Branch of Road Fork of Stinking Creek	Basin	Knox	WAH, PCR, SCR, OSRW	-
Colliers Creek of Poor Fork of Cumberland River	Basin	Bell	WAH, PCR, SCR, OSRW	-
Criscillis Branch of Jellico Creek	Basin	Whitley	WAH, PCR, SCR, OSRW	-
Cumberland River	River Mile 549.65 (Backwaters Lake Cumberland) to River Mile 566.1 (0.2 mile below Summer Shoals)	McCreary/ Whitley	WAH, PCR, SCR, OSRW	-
Cumberland River	Kentucky/Tennessee state line (River Mile 379.8) to River Mile 456.7 (Lake Cumberland Dam)	Clinton, Cumberland, Russell, Monroe	CAH, PCR, SCR	-
Davis Branch of Little Yellow Creek	Basin	Bell	WAH, PCR, SCR,	-

Table C: SURFACE WATER USE DESIGNATIONS				
Stream	Zone (Descriptive and water body or segment river miles [RM])	County	Use Designation	Exceptions to Specific Criteria
			OSRW	
Dog Slaughter Creek of Cumberland River	Basin	Whitley	CAH, PCR, SCR, OSRW	-
Dolen Branch of Rock Creek	Basin	McCreary	WAH, PCR, SCR, OSRW	-
Eagle Creek of Cumberland River	Basin	McCreary	WAH, PCR, SCR, OSRW	-
FishTrap Branch	Basin above River Mile 0.5 (Lake Cumberland backwaters)	McCreary	WAH, PCR, SCR, OSRW	-
Four Mile Creek of Cumberland River	Basin above River Mile 2.5	Bell	WAH, PCR, SCR, OSRW	-
Four Mile Run of Yellow Creek Bypass	Basin above River Mile 1.0	Bell	WAH, PCR, SCR, OSRW	-
Fugitt Creek of Clover Fork of Cumberland River	Basin	Harlan	CAH, PCR, SCR, OSRW	-
Hale Fork of Road Fork of Stinking Creek	Basin	Knox	WAH, PCR, SCR, OSRW	-
Hawk Creek of Rockcastle River	Basin	Laurel	CAH, PCR, SCR	-
Hinkle Branch of Road Fork of Stinking Creek	Basin	Knox	WAH, PCR, SCR, OSRW	-
Honeycutt Branch of Turkey Creek of Stinking Creek	Basin	Knox	WAH, PCR, SCR, OSRW	-
Horse Lick Creek	Mouth (0.0) at Middle Fork of Rockcastle River to River Mile 12.3 (Clover Bottom Creek)	Jackson/ Rockcastle	WAH, PCR, SCR, OSRW	-
Howards Creek of Illwill Creek of Wolf River	Dale Hollow Reservoir Backwaters to Headwaters	Clinton	WAH, PCR, SCR, OSRW	-
Hunting Shirt	Basin	Knox	WAH, PCR,	-

Table C: SURFACE WATER USE DESIGNATIONS				
Stream	Zone (Descriptive and water body or segment river miles [RM])	County	Use Designation	Exceptions to Specific Criteria
Branch of Richland Creek			SCR, OSRW	
Indian Creek of Cumberland River	Kilburn Fork to Barren Fork (2.4-6.8)	McCreary	WAH, PCR, SCR, OSRW	-
Indian Creek of Cumberland River	Basin above and including Barren Fork	McCreary	CAH, PCR, SCR, OSRW	-
Jackie Branch of Bark Camp Creek	Mouth to Headwaters (0.0-1.65)	Whitley	CAH, PCR, SCR, OSRW	-
Jellico Creek of Cumberland River	River Mile 22.5 (confluence with Capuchin Creek) to River Mile 25.3 (Kentucky/Tennessee State Line)	McCreary	WAH, PCR, SCR, OSRW	-
Jennys Branch of Laurel Fork of Marsh Creek	Basin	McCreary	WAH, PCR, SCR, OSRW	-
Kelly Branch of Clover Fork of Cumberland River	Basin	Harlan	WAH, PCR, SCR, OSRW	-
Kennedy Creek of Little South Fork of Cumberland River	Little South Fork of Cumberland River to River Mile 1.0	Wayne	WAH, PCR, SCR, OSRW	-
Kilburn Fork of Indian Creek	Basin	McCreary	WAH, PCR, SCR, OSRW	-
Laurel Creek of Marsh Creek	River Mile 3.1 (Jennys Branch) to River Mile 9.0 (Dam)	McCreary	CAH, PCR, SCR, OSRW	-
Laurel Fork of Clear Fork of Cumberland River	Basin above River Mile 16.0 (John Partin Road off Hwy 190)	Bell	WAH, PCR, SCR, OSRW	-
Laurel Fork of Clear Fork of Cumberland River	River Mile 4.25 (Kentucky/Tennessee state line) to River Mile 16.0 (John Partin Road off Hwy 90)	Whitley	WAH, PCR, SCR, OSRW	-
Laurel Fork of	Basin	McCreary	WAH, PCR,	-

Table C: SURFACE WATER USE DESIGNATIONS				
Stream	Zone (Descriptive and water body or segment river miles [RM])	County	Use Designation	Exceptions to Specific Criteria
Kilburn Fork			SCR, OSRW	
Laurel Fork of Middle Fork Rockcastle River	Middle Fork of Rockcastle River to Headwaters (0.0-12.3)	Jackson	WAH, PCR, SCR, OSRW	-
Laurel River	River Mile 0.9 to Laurel River Lake Dam (0.9-2.4)	Laurel, Whitley	CAH, PCR, SCR	-
Lick Fork of Yellow Creek By-Pass of Yellow Creek	Basin	Bell	WAH, PCR, SCR, OSRW	-
Little Popular Creek of Cumberland River	Basin above Hubbs Creek (4.4)	Knox	WAH, PCR, SCR, OSRW	-
Little South Fork of Cumberland River	River Mile 4.4 (backwaters of Lake Cumberland) to River Mile 35.5 (Confluence with Langham Branch)	Wayne, McCreary	WAH, PCR, SCR, OSRW	-
Long Branch of Left Fork of Straight Creek	Basin	Bell	WAH, PCR, SCR, OSRW	-
Looney Creek of Poor Fork of Cumberland River	Basin above River Mile 5.9 (Lynch City Limits)	Harlan	CAH, PCR, SCR	-
Marsh Creek	Basin above River Mile 24.6 (Confluence with Murphy Creek) to River Mile 26.5 (within Kentucky)	McCreary	WAH, PCR, SCR, OSRW	-
Marsh Creek	River Mile 0.05 (confluence with Cumberland River) to River Mile 24.6 (confluence with Murphy Creek)	McCreary	WAH, PCR, SCR, OSRW	-
Martins Fork	Basin above River Mile 32.7 (Cumberland Gap National Historical Park Boundary)	Bell	CAH, PCR, SCR	-
Martins Fork	River Mile 27.2 to River Mile 32.7 (Cumberland	Bell, Harlan	CAH, PCR, SCR,	-

Table C: SURFACE WATER USE DESIGNATIONS				
Stream	Zone (Descriptive and water body or segment river miles [RM])	County	Use Designation	Exceptions to Specific Criteria
	Gap National Historical Park Boundary)		OSRW	
McFarland Creek of Cumberland River	Little McFarland Creek to Spring Branch (0.8-6.2)	Monroe	WAH, PCR, SCR, OSRW	-
Meadow Fork of Franks Creek	Basin	Letcher	WAH, PCR, SCR, OSRW	-
Meshack Creek of Cumberland River	Mouth to Pitcock Branch (0.0-2.8)	Monroe	WAH, PCR, SCR, OSRW	-
Middle Fork of Rockcastle River	Confluence of Middle and South Forks of Rockcastle River (River Mile 0.0) to River Mile 7.9 (confluence of Indian Creek and Laurel Fork)	Jackson	WAH, PCR, SCR, OSRW	-
Mill Branch of Stinking Creek	Basin above reservoir backwaters (0.8)	Knox	WAH, PCR, SCR, OSRW	-
Mill Creek of Straight Creek	Basin	Bell	WAH, PCR, SCR, OSRW	-
Mill Creek of Cumberland River	Basin	McCreary	WAH, PCR, SCR, OSRW	-
Moore[s] Creek of Stinking Creek	Basin	Knox	WAH, PCR, SCR, OSRW	-
Mud Creek of Clear Fork of Cumberland River	Basin above River Mile 6.5 (0.3 river miles above Siler Cemetery Road Bridge)	Whitley	WAH, PCR, SCR, OSRW	-
Mud Camp Creek of Cumberland River	Mouth to Collins Branch (0.0-1.2)	Cumberland	WAH, PCR, SCR, OSRW	-
Mud Camp Creek of Cumberland River	Unidentified Tributary to Headwaters (3.8-8.8)	Cumberland/ Monroe	WAH, PCR, SCR, OSRW	-
Mud Lick of Stinking Creek	Basin	Knox	WAH, PCR, SCR,	-

Table C: SURFACE WATER USE DESIGNATIONS				
Stream	Zone (Descriptive and water body or segment river miles [RM])	County	Use Designation	Exceptions to Specific Criteria
			OSRW	
Ned Branch of Rockcastle River	Basin above backwaters (RM 0.45)	Laurel	WAH, PCR, SCR, OSRW	-
Otter Creek of Cumberland River	Lake Cumberland Backwaters to Carpenter Fork (14.0-22.1)	Wayne	WAH, PCR, SCR, OSRW	-
Patterson Creek of Cumberland River	Basin above River Mile 7.3 (confluence with Rose Creek)	Whitley	WAH, PCR, SCR, OSRW	-
Poor Fork of Cumberland River	Franks Creek to Headwaters (48.7-52.4)	Letcher	WAH, PCR, SCR, OSRW	-
Poor Fork of Cumberland River	Basin above River Mile 48.1 (at Joseph Road off of Hwy 932)	Letcher	CAH, PCR, SCR, OSRW	-
Presley House Branch of Poor Fork of Cumberland River	Mouth to Headwaters (0.0-1.5)	Letcher	WAH, PCR, SCR, OSRW	-
Puncheoncamp Branch of Rock Creek of South Fork of Cumberland River	Mouth to Headwaters (0.0-1.85)	McCreary	WAH, PCR, SCR, OSRW	-
Richland Creek of Cumberland River	Basin above River Mile 15.8 (0.5 stream miles above Hubbard Branch) to River Mile 21.4	Knox	WAH, PCR, SCR, OSRW	-
Roaring Fork of Stinking Creek	Basin	Knox	WAH, PCR, SCR, OSRW	-
Rock Creek of South Fork of Cumberland River	Kentucky/Tennessee State Line (River Mile 21.5) to White Oak Creek	McCreary	CAH, PCR, SCR, OSRW	-
Rock Creek of Jellico Creek	Basin	McCreary	WAH, PCR, SCR, OSRW	-
Rockcastle River	River Mile 8.95 (backwaters of Lake Cumberland) to River	Laurel/ Pulaski	WAH, PCR, SCR, OSRW	-

Table C: SURFACE WATER USE DESIGNATIONS				
Stream	Zone (Descriptive and water body or segment river miles [RM])	County	Use Designation	Exceptions to Specific Criteria
	Mile 54.7 (confluence of Middle Fork and South Fork Rockcastle River)			
Ross Branch of Jellico Creek	Basin	Whitley	WAH, PCR, SCR, OSRW	-
Roundstone Creek of Rockcastle River	River Mile 13.5 (confluence of Renfro Creek) to River Mile 26.4 (Interstate I-75)	Rockcastle	WAH, PCR, SCR, OSRW	-
Ryans Creek of Jellico Creek	Basin	Whitley	WAH, PCR, SCR, OSRW	-
Sanders Creek of Cumberland River	Basin	Whitley	WAH, PCR, SCR, OSRW	-
Shillalah Creek of Clear Fork of Yellow Creek	Cumberland Gap National Historical Park Boundary to Headwaters (1.5-5.5)	Bell	CAH, PCR, SCR, OSRW	-
Shillalah Creek of Clear Fork of Yellow Creek	Mouth to Cumberland Gap National Historical Park Boundary to Mouth (0.0-1.5)	Bell	WAH, PCR, SCR, OSRW	-
Shut-in Branch of Jellico Creek	Basin	McCreary	WAH, PCR, SCR, OSRW	-
Sinking Creek	Headwaters to Rockcastle River (0.0-20.3)	Laurel	WAH, PCR, SCR, OSRW	-
Sims Fork of Left Fork of Straight Creek	Basin	Bell	WAH, PCR, SCR, OSRW	-
Smith Creek of Franks Creek	Basin	Letcher	WAH, PCR, SCR, OSRW	-
South Fork of Cumberland River	River Mile 44.3 (Blue Heron) to River Mile 54.8 (Kentucky /Tennessee State Line)	McCreary	WAH, PCR, SCR, OSRW	-
South Fork of	River Mile 2.1 to White	Laurel	WAH, PCR,	-

Table C: SURFACE WATER USE DESIGNATIONS				
Stream	Zone (Descriptive and water body or segment river miles [RM])	County	Use Designation	Exceptions to Specific Criteria
Rockcastle River	Oak Creek (River Mile 5.8)		SCR, OSRW	
South Fork of Rockcastle River	Rockcastle River (River Mile 0.0) to River Mile 2.1	Rockcastle	WAH, PCR, SCR, OSRW	-
Stevenson Branch of Bennetts Fork of Yellow Creek	Basin	Bell	WAH, PCR, SCR, OSRW	-
Sulphur Creek of Wolf River of Obey River	Dale Hollow Reservoir Backwaters to Headwaters (1.7-5.1)	Clinton	WAH, PCR, SCR, OSRW	-
Trace Branch of Stinking Creek	Basin	Knox	WAH, PCR, SCR, OSRW	-
Trammel Fork of Marsh Creek	Basin	McCreary	WAH, PCR, SCR, OSRW	-
Turkey Creek of Stinking Creek	Basin	Knox	WAH, PCR, SCR, OSRW	-
Tyes Fork of Bennetts Fork of Patterson Creek	Basin	Whitley	WAH, PCR, SCR, OSRW	-
Unidentified Tributary (across from Hemlock Grove) of Rock Creek of South Fork of Cumberland River	Mouth to Headwaters (0.0-1.2)	McCreary	WAH, PCR, SCR, OSRW	-
Unidentified Tributary (RMI 17.0 of Rock Creek) of Rock Creek of South Fork of Cumberland River	Mouth to Headwaters (0.0-1.3)	McCreary	WAH, PCR, SCR, OSRW	-
Watts Branch of Rock Creek	Basin	McCreary	WAH, PCR, SCR, OSRW	-
Watts Creek of Cumberland River	Basin above Camp Blanton Lake (2.4)	Harlan	WAH, PCR, SCR,	-

Table C: SURFACE WATER USE DESIGNATIONS				
Stream	Zone (Descriptive and water body or segment river miles [RM])	County	Use Designation	Exceptions to Specific Criteria
			OSRW	
White Oak Creek of Rock Creek	Basin	McCreary	WAH, PCR, SCR, OSRW	-
White Oak Creek of Sinking Creek	Basin above River Mile 0.9 (includes Little White Oak Creek)	Laurel	CAH, PCR, SCR	-
Wood Creek of Little Rockcastle River	Confluence with Hazel Patch Creek (0.0) to River Mile 1.9 (Wood Creek Lake Dam)	Laurel	CAH, PCR, SCR	-
Youngs Creek of Cumberland River	Basin	Whitley	WAH, PCR, SCR, OSRW	-
LAKES AND RESERVOIRS				
Beulah (=Tyner)	Entire Reservoir	Jackson	WAH, CAH, PCR, SCR	-
Cannon Creek	Entire Reservoir	Bell	WAH, CAH, PCR, SCR	-
Laurel River	Entire Reservoir	Laurel/ Whitley	WAH, CAH, PCR, SCR	-
Wood Creek	Entire Reservoir	Laurel	WAH, CAH, PCR, SCR	-
TENNESSEE RIVER BASIN				
Blood River of Kentucky Lake (Tennessee River)	McCullough Fork to Tennessee State Line (15.15-18.7)	Calloway	WAH, PCR, SCR, OSRW	-
Clarks River of Tennessee River	Persimmon Slough to Middle Fork Creek (28.7-30.7)	Marshall	WAH, PCR, SCR, OSRW	-
Grindstone Creek of Kentucky Lake (Blood River of Tennessee River)	Kentucky Lake Backwaters to Headwaters (0.7-2.9)	Calloway	WAH, PCR, SCR, OSRW	-
Panther Creek of Kentucky Lake (Blood River of	Kentucky Lake Backwaters to Headwaters (0.5-5.7)	Calloway	WAH, PCR, SCR, OSRW	-

Table C: SURFACE WATER USE DESIGNATIONS				
Stream	Zone (Descriptive and water body or segment river miles [RM])	County	Use Designation	Exceptions to Specific Criteria
Tennessee River)				
Soldier Creek of West Fork of Clarks River	Mouth to South Fork of Soldier Creek (0.0-5.7)	Marshall	WAH, PCR, SCR, OSRW	-
Sugar Creek of Kentucky Lake (Tennessee River)	Kentucky Lake Backwaters to Buzzard Roost Road (2.5-3.2)	Calloway	WAH, PCR, SCR, OSRW	-
Sugar Creek of West Fork Clarks River	Mouth to Unnamed Reservoir (0.0-3.9)	Graves	WAH, PCR, SCR, OSRW	-
Tennessee River	River Mile 23.1 (Kentucky Lake Dam) to River Mile 12.4 (12.4-23.1)	Livingston/ McCracken/ Marshall	WAH, PCR, SCR, OSRW	-
Trace Creek of West Fork of Clarks River	Mouth to Neeley Branch (0.0-3.35	Graves	WAH, PCR, SCR, OSRW	-
Unidentified Tributary of Unidentified Tributary of Panther Creek of West Fork of Clarks River	Mouth to Headwaters (0.0-1.7)	Graves	WAH, PCR, SCR, OSRW	-
West Fork of Clarks River	Soldier Creek to Duncan Creek (20.1-235.)	Graves	WAH, PCR, SCR, OSRW	-
Wildcat Creek of Kentucky Lake (Blood River of Tennessee River)	Ralph Wright Road Crossing to Headwaters 2.8-6.8)	Calloway	WAH, PCR, SCR, OSRW	-
OHIO RIVER BASIN (Main Stem and Minor Tributaries)				
Crooked Creek	Rush Creek to City Lake Dam (18.1-26.4)	Crittenden	WAH, PCR, SCR, OSRW	-
Doe Run Creek	Hwy 1638 to Headwaters (5.4-8.4)	Meade	CAH, PCR, SCR	-
Double Lick Creek of Woolper Creek	Mouth to Headwaters (0.0-3.5)	Boone	WAH, PCR, SCR, OSRW	-
Garrison Creek	Mouth to Headwaters	Boone	WAH, PCR,	-

Table C: SURFACE WATER USE DESIGNATIONS				
Stream	Zone (Descriptive and water body or segment river miles [RM])	County	Use Designation	Exceptions to Specific Criteria
	(0.0-4.85)		SCR, OSRW	
Kinniconick Creek	McDowell Creek to Headwaters (5.2)-50.9)	Lewis	WAH, PCR, SCR, OSRW	-
Little South Fork of Big South Fork	Land Use Change to Headwaters (1.2-5.9)	Boone	WAH, PCR, SCR, OSRW	-
Middle Fork of Massac Creek	Hines Road to Headwaters (3.1-6.4)	McCracken	WAH, PCR, SCR, OSRW	-
Ohio River	River Mile 848.0 to River Mile 850.0	Union	WAH, PCR, SCR, OSRW	-
Ohio River	River Mile 859.0 to River Mile 861.0	Union	WAH, PCR, SCR, OSRW	-
Ohio River	River Mile 865.0 to River Mile 867.0	Union	WAH, PCR, SCR, OSRW	-
Ohio River	River Mile 923.5 to River Mile 926.0	Livingston	WAH, PCR, SCR, OSRW	-
Ohio River	River Mile 927.0 to River Mile 930.0	Livingston	WAH, PCR, SCR, OSRW	-
Ohio River	River Mile 940.7 to River Mile 943.3	McCracken	WAH, PCR, SCR, OSRW	-
Ohio River	River Mile 948.2 to River Mile 949.5	McCracken	WAH, PCR, SCR, OSRW	-
Ohio River	River Mile 960.0 to River Mile 962.7 (above Lock and Dam 53)	Ballard	WAH, PCR, SCR, OSRW	-
Ohio River	River Mile 966.3 to River Mile 969.5	Ballard	WAH, PCR, SCR, OSRW	-
Ohio River	River Mile 922.0 to River Mile 923.5 (Channel East of Towhead Island)	Livingston	WAH, PCR, SCR, OSRW	-

Table C: SURFACE WATER USE DESIGNATIONS				
Stream	Zone (Descriptive and water body or segment river miles [RM])	County	Use Designation	Exceptions to Specific Criteria
Otter Creek	Ohio River to River Mile 9.7	Meade	CAH, PCR, SCR	-
Second Creek	Ohio River Backwaters to Headwaters (0.4-2.9)	Boone	WAH, PCR, SCR, OSRW	-
Sinking Creek	Hwy 259 to Headwaters (includes Blue & Stony Forks)	Breckinridge	CAH, PCR, SCR	-
Unidentified Tributary of Big Sugar Creek	I-71 to Headwaters (1.0-1.8)	Gallatin	WAH, PCR, SCR, OSRW	-
Unidentified Tributary of Corn Creek	Mouth to Headwaters (0.0-2.3)	Trimble	WAH, PCR, SCR, OSRW	-
Unidentified Tributary of Massac Creek	Mouth to Headwaters (0.0-1.7)	McCracken	WAH, PCR, SCR, OSRW	-
West Fork of Massac Creek	SR 725 to Little Massac Creek (1.0-6.2)	McCracken	WAH, PCR, SCR, OSRW	-
White Oak Creek	Mouth (Ohio River) to River Mile 1.08	Greenup	SCR	401 KAR 10:031, Section 2(1)(d) and 2(2) do not apply.
Yellowbank Creek	Ohio River Backwaters to Headwaters (2.0-12.0)	Breckinridge	WAH, PCR, SCR, OSRW	-
LAKES AND RESERVOIRS				
Metropolis	Entire Lake	McCracken	WAH, PCR, SCR, OSRW	-
MISSISSIPPI RIVER BASIN (Main Stem and Minor Tributaries)	-	-	-	-
Bayou de Chien	River Mile 15.4 to Headwaters (River Mile 32.9)	Hickman/ Graves	WAH, PCR, SCR, OSRW	-
Cane Creek of	Basin	Graves	WAH, PCR,	-

Table C: SURFACE WATER USE DESIGNATIONS				
Stream	**Zone (Descriptive and water body or segment river miles [RM])**	**County**	**Use Designation**	**Exceptions to Specific Criteria**
Bayou de Chien			**SCR, OSRW**	
Jackson Creek of Bayou de Chein	**Basin**	**Graves**	**WAH, PCR, SCR, OSRW**	-
Jackson Creek	**Mouth to Headwaters**	**Graves**	**WAH, PCR, SCR, OSRW**	-
Mississippi River	**River Mile 935.0 to River Mile 930.0**	**Carlisle**	**WAH, PCR, SCR, OSRW**	-
Mississippi River	**River Mile 947.0 to River Mile 945.0**	**Carlisle**	**WAH, PCR, SCR, OSRW**	-
Obion Creek	**Hurricane Creek to Little Creek (26.7-37.1)**	**Hickman**	**WAH, PCR, SCR, OSRW**	-
Sand Creek of Bayou de Chein	**Basin**	**Graves**	**WAH, PCR, SCR, OSRW**	-
South Fork of Bayou de Chien	**Basin**	**Graves**	**WAH, PCR, SCR, OSRW**	-
Terrapin Creek	**Tennessee State Line to Headwaters (2.7-6.0)**	**Graves**	**WAH, PCR, SCR, OSRW**	-
LAKES AND RESERVOIRS				
Murphy's Pond	**Entire Pond and Preserve Area**	**Hickman**	**WAH, PCR, SCR, OSRW**	-
Swan Pond	**Entire Lake**	**Ballard**	**WAH, PCR, SCR, OSRW**	-

Delete the Table C in its entirety, from after line 5 on page 22 through page 88.

Page 120
Section 6(2)
Line 5

After "Division of Water,", insert "200 Fair Oaks Lane".
Delete "14 Reilly Road".

401 KAR 10:029. General provisions. Comments were considered and the following changes are suggested:

Page 1
RELATES TO
Line 8

After "40 C.F.R.", insert the following:

136, 33 U.S.C. 1326(a), EO 2008-507, 2008-531

Delete "Part 136".

Page 1
STATUTORY AUTHORITY
Line 10

After "40 C.F.R.", delete "Part".

Page 1
NECESSITY, FUNCTION, AND CONFORMITY
Line 13

At the beginning of the line, delete “Environmental and Public Protection”.

Line 17

After "thus protect water resources.", insert the following:

EO 2008-507 and 2008-531, effective June 16, 2008, abolish the Environmental and Public Protection Cabinet and establish the new Energy and Environment Cabinet.

Page 2
Section 1(1)
Line 4

After “and to abate”, delete “, if applicable”.

Page 3
Section 3(1)
Line 17

After "40 C.F.R.", delete "Part".

Page 4
Section 4(1)
Line 2

After “(1)”, delete the following:

Upon request by the applicant for mixing zones for nonconventional pollutants

Line 3

After “cabinet”, insert “may”.

Delete “shall”.

Line 4

After "within a discharge", insert the following:

based on the following criteria:

Delete the period.

Page 4
Section 4(1)(a)
Line 7

After "zones", insert a semicolon.

Delete the period.

Page 4
Section 4(1)(b)
Line 13

After "with this section", insert a semicolon.

Delete the period.

Insert the following:

(c) In a stream or river, unless assigned on or before December 8, 1999, an assigned mixing zone, from the point of discharge in a spatial direction, shall not exceed one-third (1/3) of the width of the receiving stream or one-half (1/2) of the cross-sectional area;

(d) In a lake or a reservoir, unless assigned on or before December 8, 1999, an assigned mixing zone, from the point of discharge in any spatial direction, shall not exceed one-tenth (1/10) of the width of the lake, or reservoir at the discharge point;

(e) An assigned mixing zone shall be limited to an area or volume that shall not adversely affect the designated uses of the receiving water and shall not be so large as to adversely affect an established community of aquatic organisms;

(f) The location of a mixing zone shall not:

1. Interfere with fish spawning or nursery areas, fish migration routes, public water supply intakes, or bathing areas;

2. Preclude the free passage of fish or other aquatic life; or

3. Jeopardize the continued existence of endangered or threatened aquatic species listed under Section 4 of the Endangered Species Act, 16 U.S.C. 1531 through 1544, or result in the destruction or adverse modification of their critical habitat;

(g) For thermal discharges, a successful demonstration conducted under Section 316(a) of the Clean Water Act, 33 U.S.C. Section 1326(a), shall constitute compliance with this section; and

(h) Unless assigned by the cabinet on or before September 8, 2004, there shall not be mixing zones for bioaccumulative chemicals of concern.

1. A mixing zone that was assigned by the cabinet for a bioaccumulative chemical of concern shall not expire later than September 8, 2014.

2.a. A bioaccumulative chemical of concern is one that accumulates in one (1) or more aquatic organisms by a human health bioaccumulation factor of greater than 1000.

b. For the purposes of this administrative regulation, bioaccumulative chemicals

of concern shall consist of the following:
(i) alpha-Hexachlorocyclohexane;
(ii) beta-Hexachlorocyclohexane;
(iii) Chlordane;
(iv) DDD;
(v) DDE;
(vi) DDT;
(vii) delta-Hexachlorocyclohexane;
(viii) Dieldrin;
(ix) Hexachlorobenzene;
(x) Hexachlorobutadiene;
(xi) Hexachlorocyclohexane;
(xii) Lindane;
(xiii) Mercury;
(xiv) Mirex;
(xv) Octachlorostyrene;
(xvi) PCBs;
(xvii) Pentachlorobenzene;
(xviii) Photomirex;
(xix) Toxaphene;
(xx) 1,2,3,4-Tetrachlorobenzene;
(xxi) 1,2,4,5-Tetrachlorobenzene; and
(xxii) 2,3,7,8-TCDD (Dioxin).

Page 5
Section 4(4)(d)
Line 14

Beginning with "(d) Residence times within", delete the remainder of Section 4, through page 7.

401 KAR 10:030. Antidegradation policy implementation methodology. Comments were considered and the following changes are suggested:

Page 1
RELATES TO
Line 8

After "224.73-100 - 224.73-120, insert the following:
30 U.S.C. 1201 - 1328, EO 2008-507, 2008-531

Page 1
STATUTORY AUTHORITY
Line 10

After "40 C.F.R.", delete "Parts".

Page 1
NECESSITY, FUNCTION, AND CONFORMITY
Lines 13 and 14

After “requires the”, delete “Environmental and Public Protection”.

Line 19

After "any existing pollution.", insert the following:

EO 2008-507 and 2008-531, effective June 16, 2008, abolish the Environmental and Public Protection Cabinet and establish the new Energy and Environment Cabinet.

Page 3
Section 1(1)
Table 1, Row 5, Column 3

In the row that begins “South Fork of Cumberland River” and in the column “River Miles”, insert “44.3 to 54.8”.
Delete “45.0 - 55.2”.

Page 3
Section 1(1)
Table 1, Row 10, Column 3

In the last row of the table, which begins “Rockcastle River”, and in the column “River Miles”, insert “8.95 to 22.4”.
Delete “8.5 to 21.8”.

Page 4
Section 1(2)
Line 14

After “of this subsection.”, insert the following:

Table 2 **SURFACE WATERS CATEGORIZED AS EXCEPTIONAL WATER**			
Stream	**Segment**	**River Miles**	**County**
BIG SANDY RIVER BASIN			
Hobbs Fork of Pigeonroost Fork of Wolf Creek*	**Mouth to Headwaters**	**0.0-3.9**	**Martin**
Lower Pigeon Branch of Elkhorn Creek*	**Left Fork to Headwaters**	**0.6-1.9**	**Pike**
Russell Fork of Levisa Fork of Big Sandy River*	**Clinch Field RR Yard off HWY 80 to Virginia State Line**	**15.0-16.5**	**Pike**
Toms Branch of Elkhorn Creek*	**Mouth to Headwaters**	**0.0-1.6**	**Pike**
Unidentified Tributary of Hobbs Fork*	**Hobbs Fork of Pigeonroost Fork to Headwaters**	**0.0-0.6**	**Martin**
LITTLE SANDY RIVER BASIN			
Arabs Fork of Big	**Clay Fork to Headwaters**	**0.0-5.1**	**Elliott**

Sinking Creek*			
Big Caney Creek*	Grayson Lake to Headwaters	1.8-15.3	Elliott, Rowan
Big Sinking Creek of Little Sandy River*	SR 986 to Clay Fork and Arab Fork	6.1-15.8	Carter, Elliott
Meadow Branch of Little Fork of Little Sandy River*	Mouth to Headwaters	0.0-1.4	Elliott
Middle Fork of Little Sandy River*	Mouth to Sheepskin Branch	0.0-3.4	Elliott
Nichols Fork of Little Fork of Little Sandy River*	Green Branch to Headwaters	0.0-2.0	Elliott
Laurel Creek of Little Sandy River*	Carter School Rd Bridge to Headwaters	7.6-14.7	Elliott, Rowan
LICKING RIVER BASIN			
Blackwater Creek of Licking River*	Eaton Creek to Greasy Fork	3.8-11.7	Morgan
Blanket Creek of Licking River	Mouth to Unidentified Tributary	0.0-1.9	Pendleton
Botts Fork of Brushy Fork of Licking River*	Mouth to Landuse Change	0.0-2.1	Menifee
Bowman Creek of Licking River	Mouth to Unidentified Tributary	0.0-6.0	Kenton
Brushy Fork of Meyers Creek*	Cave Run Lake Backwaters to Headwaters	0.7-5.6	Menifee
Brushy Fork of South Fork of Grassy Creek*	Mouth to Headwaters	0.0-5.8	Pendleton
Bucket Branch of North Fork of Licking River*	Mouth to Headwaters	0.0-1.9	Morgan
Cedar Creek of Licking River	Mouth to North Branch of Cedar Creek	0.0-1.7	Robertson
Craney Creek of Licking River	Mouth to Headwaters	0.0-11.2	Morgan, Rowan
Devils Fork of North Fork of Licking River*	Mouth to Headwaters	0.0-8.5	Elliott, Morgan
Flour Creek of Licking River	Mouth to Unidentified Tributary	0.0-2.2	Pendleton
Grovers Creek of Kincaid Creek*	Kincaid Lake Backwaters to Unidentified Tributary	0.5-3.4	Bracken, Pendleton
Licking River	SR 211 to unnamed Rd off Slatey Point Rd	159.5-170.6	Bath, Rowan
North Fork of Licking River*	Cave Run Lake Backwaters to Devils Fork	8.4-13.4	Morgan
Sawyers Fork of Cruises	Mouth to Headwaters	0.0-3.3	Kenton

Creek			
Slabcamp Creek of Craney Creek of Licking River	Mouth to Headwaters	0.0-3.7	Rowan
Slate Creek of Licking River	Mouth to Mill Creek	0.0-13.6	Bath
South Fork Grassy Creek of Grassy Creek of Licking River*	Mouth to Greasy Creek	0.0-19.8	Kenton, Pendleton
Unidentified Tributary of Shannon Creek of North Fork of Licking River	Mouth to Headwaters	0.0-2.2	Mason
Welch Fork of Brushy Fork of Licking River*	Mouth to First Road Crossing	0.0-1.0	Menifee
West Creek of Licking River*	Mouth to Headwaters	0.0-9.8	Harrison, Robertson
KENTUCKY RIVER BASIN			
Backbone Creek of Sixmile Creek of Kentucky River*	Mouth to Scrabble Creek	0.0-1.65 ~~[0.0-1.7]~~	Franklin, Henry, Shelby
Bear Branch of North Fork of Kentucky River	Above Sediment Pond to Headwaters	0.3-1.2	Perry
Big Double Creek of Red Bird River*	Mouth to confluence of Left and Right Forks of Big Double Creek	0.0-6.5	Clay
Bill Branch of Laurel Fork of Greasy Creek*	Mouth to Right Fork and Left Fork Creek	0.0-0.3	Leslie
Billey Fork of Millers Creek	Land Use Change to Headwaters	2.6-8.8	Lee, Elliott
Bill Oak Branch of Left Fork of Buffalo Creek	Mouth to Headwaters	0.0-0.6	Owsley
Buffalo Creek of South Fork of Kentucky River*	Mouth to Right Fork and Left Fork	0.0-1.6	Owsley
Cavanaugh Creek*	South Fork of Station Camp Creek to Foxtown Rd	[0.0-8.3] ~~0.0-5.1~~	Jackson
Cherry Run of Boyd Run of North Elkhorn Creek	Mouth to Boyd Run	0.0-0.9	Scott
Chester Creek of Middle Fork of Red River*	Mouth to Headwaters	0.0-2.8	Wolfe
Clear Creek of Kentucky River*	Mouth to East Fork Clear Creek	0.0-9.0	Woodford
Clemons Fork of Buckhorn Creek*	Mouth to Headwaters	0.0-4.8	Breathitt
Coles Fork of Buckhorn Creek*	Mouth to Headwaters	0.0-6.2	Breathitt

Craig Creek of Kentucky River*	Mouth to Unidentified Tributary	0.5-2.7	Woodford
Deep Ford Branch of Cutshin Creek	Above Pond to Headwaters	0.3-1.3	Leslie
Drennon Creek of Kentucky River*	Fivemile Creek to Town Branch	8.7-12.2	Henry
East Fork of Indian Creek of Indian Creek of Red River River*	West Fork of Indian Creek to Headwaters	0.0-9.0	Menifee
Elisha Creek of Red Bird River*	Land Use Change (Residential) to the confluence of Right Fork and Middle Fork Elisha Creek	0.8-1.8	Leslie
Emily Run of Drennon Creek	Mouth to Unidentified Tributary	0.0-4.0	Henry
Evans Fork of Billey Fork of Millers Creek*	Mouth to Headwaters	0.0-3.0	Estill
Falling Rock Branch of Clemons Fork of Buckhorn Creek*	Mouth to Headwaters	0.0-0.7	Breathitt
Gilberts Creek of Kentucky River	Mouth to Unidentified Tributary	0.0 to 2.6	Anderson
Gladie Creek of Red River*	Land Use Change to Long Branch	0.35 to 7.3	Menifee
Goose Creek of South Fork of Kentucky River	Mouth to Laurel Creek	0.0-9.1	Clay, Leslie
Griers Creek of Kentucky River*	Kentucky River Backwaters to Unidentified Tributary	0.1 to 3.5	Woodford
Grindstone Creek of Kentucky River*	Kentucky River Backwaters to Headwaters	0.1 to 1.9	Franklin
Hardwick Creek of Red River	Mouth to Little Hardwick Creek	0.0-3.25	Powell
Hell For Certain of Middle Fork of Red River	Mouth to Big Fork	0.0-2.1	Leslie
Hines Creek of Kentucky River*	Kentucky River Backwaters to confluence with Unidentified Tributary	0.1 to 1.9	Madison
Honey Branch of Greasy Creek of Middle Fork of Kentucky River*	Mouth to Headwaters	0.0-1.35	Leslie
Hopper Cave Branch of Cavanaugh Creek*	Mouth to Headwaters	0.0-1.8	Jackson
Indian Creek of Eagle Creek*	Mouth to Headwaters	0.0 to 5.4	Carroll
Indian Fork of Sixmile Creek of Kentucky River*	Mouth to Headwaters	0.0-3.3	Shelby

John Carpenter Fork of Clemons Fork of Buckhorn Creek*	Mouth to Headwaters	0.0-1.2	Breathitt
Katies Creek of Red Bird River	Mouth to Headwaters	0.0-4.0	Clay
Laurel Fork of Left Fork Buffalo Creek of Buffalo Creek*	Cortland Fork to Big Branch	0.0-3.75	Owsley
Left Fork of Big Double Creek of Kentucky River*	Mouth to Headwaters	0.0-1.5	Clay
Line Fork of North Fork of Kentucky River*	Defeated Creek to Headwaters	12.2-28.6	Letcher
Little Middle Fork of Elisha Creek of Red Bird River*	Mouth to Headwaters	0.0-0.75	Clay
Little Millseat Branch of Clemons Fork of Buckhorn Creek*	Mouth to Headwaters	0.0-1.2	Breathitt
Little Sixmile Creek of Sixmile Creek of Kentucky River*	Mouth to Headwaters	0.0-5.3	Henry
Lower Howard Creek of Kentucky River	Mouth to West Fork	0.0-2.7	Clark
Lulbegrud Creek of Red River	Mouth to Falls Branch	0.0-7.3	Clark, Powell
Middle Fork of Kentucky River	Mouth to Upper Twin Creek	0.0-12.7	Lee, Owsley
Middle Fork of Kentucky River*	Hurts Creek to Greasy Creek	75.6-85.8	Leslie
Middle Fork of Red River	South Fork of Red River to Natural Bridge State Park Lake	1.8-7.2	Powell
Mikes Branch of Laurel Fork of Left Fork of Buffalo Creek	Mouth to Headwaters	0.0-0.7	Owsley
Mill Creek of Kentucky River*	Upstream of Mouth to Headwaters	0.5-8.3	Owen
Millseat Branch of Clemons Fork of Buckhorn Creek*	Mouth to Headwaters	0.0-1.85	Breathitt
Muddy Creek of Kentucky River*	Elliston, Kentucky to Viney Creek	13.8-20.65	Madison
Musselman Creek of Eagle Creek*	Mouth to Headwaters	0.0-9.0	Grant
Red Bird River of South	Mouth to Big Creek	0.0-15.3	Clay

Fork of Kentucky River			
Right Fork of Buffalo Creek of Kentucky River*	Mouth to Headwaters	0.0-11.75	Owsley
Right Fork of Elisha Creek of Redbird River	Mouth to Headwaters	0.0-3.3	Leslie
Roaring Fork of Lewis Fork of Buckhorn Creek*	Mouth to Headwaters	0.0-0.9	Breathitt
Rock Lick Creek of South Fork of Station Camp Creek*	Mouth to Headwaters	0.0-9.6	Jackson
Sand Ripple Creek of Kentucky River*	Kentucky River Backwaters to Headwaters	0.1-3.9	Henry
Severn Creek of Kentucky River*	Kentucky River Backwaters to North Fork of Severn Creek	1.35-3.0	Owen
Shaker Creek of Kentucky River	Near Mouth to Shawnee Run	0.1-1.4	Mercer
Shelly Rock Fork of Millseat Branch of Clemons Fork*	Mouth to Headwaters	0.0-0.6	Breathitt
Sixmile Creek of Kentucky River*	Little Sixmile Creek to Dam	7.1-15.3	Henry
South Fork of Kentucky River	Mouth to Sexton Creek	0.0-27.8	Owsley
South Fork of Red River	Mouth to Sandlick Fork	0.0-4.2	Powell
South Fork of Station Camp Creek of Kentucky River*	Mouth to Rock Lick Creek	0.0-9.7	Jackson
Spruce Branch of Redbird River*	Mouth to Headwaters	0.0-1.0	Clay
Station Camp Creek of Kentucky River*	Landuse Change to South Fork of Station Camp Creek	18.0-22.8	Estill
Steeles Run of Elkhorn Creek	Mouth to Unidentified Tributary	0.0-4.2	Fayette
Steer Fork of War Fork of Station Camp Creek*	Mouth to Headwaters	0.0-2.7	Jackson
Sturgeon Creek of Kentucky River*	Duck Fork to Little Sturgeon Creek	1.3-13.7	Lee, Owsley
Sugar Creek of Redbird River*	Landuse Change to Headwaters	0.6-5.4	Leslie
Sulphur Lick Creek of Elkhorn Creek	Mouth to Headwaters	0.0-5.2	Franklin
Unidentified Tributary of Cawood Branch of Beech Fork*	Mouth to Headwaters	0.0-2.1	Leslie

Unidentified Tributary of Cedar Creek of Kentucky River*	Mouth to Headwaters	0.0-1.4	Owen
Unidentified Tributary of Glenns Creek of Kentucky River*	Mouth to Headwaters	0.0 to 1.9	Woodford
Unidentified Tributary of Jacks Creek of Kentucky River*	Mouth to Headwaters	0.0-1.15	Madison
Unidentified Tributary of Kentucky River*	Land Use Change to Headwaters	0.1-1.4	Franklin
Unidentified Tributary of Line Fork of North Fork of Kentucky River* (LCW)	Mouth to Headwaters	0.0-0.6	Letcher
War Fork of Station Camp Creek*	Mouth to Headwaters	0.0-13.8	Jackson
Watches Fork of Laurel Fork of Left Fork of Buffalo Creek	Mouth to Headwaters	0.0-1.0	Owsley
Wolfpen Creek of Red River*	Mouth to Headwaters	0.0-3.6	Menifee
SALT RIVER BASIN			
Brashears Creek of Salt River	Guist Creek to Bullskin and Clear Creek	13.0-25.9	Shelby, Spencer
Cedar Creek of Salt River*	Mouth to Greens Branch	0.0-5.2	Bullitt
Chaplin River of Salt River*	Thompson Creek to Cornishville, KY	40.9-54.2	Washington
Doctors Fork of Chaplin River	Mouth to Begley Branch	0.0-3.8	Boyle
Guist Creek of Brashears Creek	Mouth to Jeptha Creek	0.0-15.7	Spencer
Harts Run of Wilson Creek of Rolling Fork of Salt River*	Mouth to Headwaters	0.0-1.8	Bullitt
Indian Creek of Thompson Creek of Chaplin River of Salt River	Mouth to Unidentified Tributary	0.0-0.9	Mercer
Lick Creek of Long Lick Creek of Beech Fork of Salt River*	Mouth to 0.1miles below Dam	0.0-4.1	Washington
Otter Creek of Rolling Fork of Salt River*	Landuse Change to confluence of East Fork and Middle Fork	1.7-2.9	Larue

	Otter Creek		
Overalls Creek of Wilson Creek of Rolling Fork of Salt River*	Mouth to Headwaters of Middle Fork of Overalls Creek	0.0-3.2	Bullitt
Salt Lick Creek of Rolling Fork of Salt River*	Mouth to Headwaters	0.0-8.6	Larue, Marion
Sulphur Creek of Chaplin River*	Mouth to confluence of Cheese Lick and Brush Creek	0.0-10.0	Anderson, Mercer, Washington
Unidentified Tributary of Glens Creek of Chaplin River	Mouth to Headwaters	0.0-2.3	Washington
West Fork of Otter Creek of Rolling Fork of Salt River*	Mouth to Headwaters	0.0-5.1	Larue
Wilson Creek of Rolling Fork of Salt River*	Mouth to Headwaters	0.0-18.4	Bullitt, Nelson
GREEN RIVER BASIN			
Beaverdam Creek of Green River*	Mouth to Headwaters	0.0-14.5	Edmonson
Big Brush Creek of Green River	Brush Creek to Poplar Grove Branch	13.0-17.3	Green
Cane Run of Nolin River*	Nolin River Lake Backwaters to Headwaters	0.8-6.5	Hart
Caney Fork of Peter Creek*	Mouth to Headwaters	0.0-6.7	Barren
Clifty Creek of Rough River*	Barton Run to Western Kentucky Parkway	7.3-17.2	Grayson
Clifty Creek of Wolf Lick Creek*	Little Clifty Creek to Sulphur Lick	7.6-13.4	Todd
East Fork of Little Barren River*	Red Lick Creek to Flat Creek	18.9-20.7	Metcalfe
Elk Lick Creek	Duck Lick Creek to Barren Fork Creek and Edger Creek	3.6 to 11.8	Allen
Ellis Fork of Damron Creek*	Mouth to Headwaters	0.0-3.2	Adair, Russell
Falling Timber Creek of Skaggs Creek*	Landuse Change to Headwaters	10.8-15.2	Barren, Metcalfe
Fiddlers Creek of North Fork of Rough River*	Mouth to Headwaters	0.0-5.9	Breckinridge
Forbes Creek of Buck Creek of East Fork of Pond River*	Mouth to Unidentified Tributary	0.0-4.1	Christian
Gasper River of Barren River*	Clear Fork to Wiggington Creek	17.2-35.6	Logan, Warren

Goose Creek of Green River*	Mouth to Little Goose Creek	0.0-8.5	Casey, Russell
Green River	Downstream Mammoth Cave National Park Boundary to Lynn Camp Creek	185.0-250.3	Edmonson, Hart
Halls Creek of Rough River*	Unidentified Tributary to Headwaters	7.15-9.6	Ohio
Lick Creek of West Fork of Drakes Creek*	Mouth to Headwaters	0.0-10.2	Simpson
Linders Creek of Rough River*	Mouth to Sutzer Creek	0.0-7.9	Hardin
Little Beaverdam Creek of Green River*	Mouth to SR 743	0.0-11.65	Edmonson, Warren
Little Short Creek of Rough River*	Mouth to Headwaters	0.0-3.1	Grayson
Lynn Camp Creek of Green River*	Mouth to Lindy Creek	0.0-8.5	Hart
McFarland Creek of West Fork of Pond River*	Grays Branch to Unidentified Tributary	1.5-5.0	Christian
Meeting Creek of Rough River*	Little Meeting Creek to Petty Branch	5.2-14.0	Grayson, Hardin
Muddy Creek of Caney Creek of Rough River*	Landuse Change to Headwaters	13.0-15.5	Ohio
North Fork of Rough River*	Buffalo Creek to Reservoir Dam	22.1-26.9	Breckinridge
Peter Creek of Barren River*	Caney Fork to Dry Fork	11.6-18.5	Barren
Pond Run of Rough River*	Landuse Change to Headwaters	1.4-6.8	Breckinridge, Ohio
Puncheon Creek	Mouth to Tennessee State Line	0.0-3.8	Logan
Rough River*	Linders Creek to Vertrees Creek	138.0-149.4	Hardin
Russell Creek of Green River*	Mouth to Columbia WWTP	0.0-40.0	Green, Adair
Russell Creek of Green River*	Reynolds Creek to confluence with Hudson Creek and Mount Olive Creek	56.9-66.3	Adair, Russell
Sixes Creek of Indian Camp Creek*	Wild Branch to Headwaters	2.0-7.5	Ohio
Sulphur Branch of Alexander Creek*	Mouth to Headwaters	0.0-3.0	Edmonson
Thompson Branch of West Fork of Drakes Creek	Webb Branch to Tennessee State Line	0.3-1.5	Simpson
Trammel Creek of	Mouth to Tennessee State Line	0.0-30.6	Allen,

Drakes Creek*			Warren
Unidentified Tributary of Green River*	Landuse Change to Headwaters	1.7-3.2	Adair
Unidentified Tributary of White Oak Creek*	Hovious Rd Crossing to SR 76	0.4-2.9	Adair
West Fork of Pond River*	Unidentified Tributary to East Branch of Pond River	12.45-22.5	Christian
LOWER CUMBERLAND RIVER BASIN			
Crooked Creek of Cumberland River*	Energy Lake Backwaters to Headwaters	3.0-9.4	Trigg
Donaldson Creek of Cumberland River*	Craig Branch to Unidentified Tributary	3.2-7.2	Trigg
Elk Fork of Red River of Cumberland River*	Tennessee State Line to Dry Branch	7.5-23.1	Todd
Sugar Creek of Cumberland River*	Lick Creek to Unidentified Tributary	2.2-6.9	Livingston
West Fork of Red River of Cumberland River*	Tennessee State Line to Montgomery Creek	16.1-26.5	Christian
Whippoorwill Creek of Red River of Cumberland River*	Mouth to Vicks Branch	0.0-13.2	Logan
TENNESSEE RIVER BASIN			
Blood River of Kentucky Lake (Tennessee River)*	McCullough Fork to Tennessee State Line	15.15-18.7	Calloway
Clarks River of Tennessee River	Persimmon Slough to Middle Fork Creek	28.7-30.7	Marshall
Grindstone Creek of Kentucky Lake (Blood River of Tennessee River)*	Kentucky Lake Backwaters to Headwaters	0.7-2.9	Calloway
Panther Creek of Kentucky Lake (Blood River of Tennessee River)*	Kentucky Lake Backwaters to Headwaters	0.5-5.7	Calloway
Soldier Creek of West Fork of Clarks River*	Mouth to South Fork of Soldier Creek	0.0-5.7	Marshall
Sugar Creek of Kentucky Lake (Tennessee River)*	Kentucky Lake Backwaters to Buzzard Roost Road	2.5-3.2	Calloway
Sugar Creek of West Fork Clarks River*	Mouth to Unnamed Reservoir	0.0-3.9	Graves
Trace Creek of West Fork of Clarks River*	Mouth to Neeley Branch	0.0-3.35	Graves
Unidentified Tributary of Unidentified Tributary of Panther Creek of West	Mouth to Headwaters	0.0-1.7	Graves

Fork of Clarks River*			
West Fork of Clarks River*	Soldier Creek to Duncan Creek	20.1-23.5	Graves
Wildcat Creek of Kentucky Lake (Blood River of Tennessee River)*	Ralph Wright Road Crossing to Headwaters	2.8-6.8	Calloway
TRADEWATER RIVER BASIN			
East Fork of Flynn Fork of Tradewater River*	Landuse Change to Headwaters	2.15-4.6	Caldwell
Piney Creek of Tradewater River*	Lake Beshear Backwaters to Headwaters	4.5-10.2	Caldwell, Christian
Sandlick Creek of Tradewater River*	Camp Creek to Headwaters	4.5-8.6	Christian
Tradewater River*	Dripping Springs Branch to Buntin Lake Dam	126.2-133.9	Christian
Unidentified Tributary of Piney Creek of Tradewater River*	Mouth to Headwaters	0.0-2.9	Caldwell
Unidentified Tributary of Sandlick Creek of Tradewater River*	Mouth to Headwaters	0.0-1.4	Christian
OHIO RIVER BASIN (Minor Tributaries)			
Crooked Creek*	Rush Creek to City Lake Dam	18.1-26.4	Crittenden
Double Lick Creek of Woolper Creek*	Mouth to Headwaters	0.0-3.5	Boone
Garrison Creek*	Mouth to Headwaters	0.0-4.85	Boone
Kinniconick Creek*	McDowell Creek to Headwaters	5.2-50.9	Lewis
Little South Fork of Big South Fork	Land Use Change to Headwaters	1.2-5.8	Boone
Middle Fork of Massac Creek*	Hines Road to Headwaters (Pond)	3.1-6.4	McCracken
Second Creek*	Ohio River Backwaters to Headwaters	0.4-2.9	Boone
Unidentified Tributary of Big Sugar Creek*	I-71 to Headwaters	1.0-1.8	Gallatin
Unidentified Tributary of Corn Creek*	Mouth to Headwaters	0.0-2.3	Trimble
Unidentified Tributary of Massac Creek*	Mouth to Headwaters	0.0-1.7	McCracken
West Fork of Massac Creek*	SR 724 to Little Massac Creek	3.6-6.2	McCracken
Yellowbank Creek*	Ohio River Backwaters to	2.0-12.0	Breckinridge

	Headwaters		
LAKE			
Metropolis	**Entire Lake**	**-**	**McCracken**
MISSISSIPPI RIVER BASIN (Main Stem and Minor Tributaries)			
Jackson Creek*	**Mouth to Headwaters**	**0.0-3.0**	**Graves**
Obion Creek*	**Hurricane Creek to Little Creek**	**26.7-37.1**	**Hickman**
Terrapin Creek*	**Tennessee State Line to Confluence of East and West Forks**	**2.7-6.0**	**Graves**
LAKES			
Murphy's Pond	**Entire Pond and Preserve Area**	**-**	**Hickman**
Swan	**Entire Lake**	**-**	**Ballard**
UPPER CUMBERLAND RIVER BASIN			
Bad Branch of Poor Fork of Cumberland River*	**Mouth to Headwaters**	**0.0-3.0**	**Letcher**
Bark Camp Creek of Cumberland River*	**Mouth to Martins Fork**	**0.0-4.0**	**Whitley**
Beaver Creek of Cumberland River*	**Lake Cumberland Backwaters to confluence of Freeman Fork and Middle Fork**	**2.4-7.1**	**McCreary**
Bee Lick Creek of Brushy Creek of Buck Creek	**Mouth to Warren Branch**	**0.0-5.7**	**Pulaski**
Brownies Creek of Cumberland River*	**Blacksnake Branch to Headwaters**	**9.3-16.75**	**Bell, Harlan**
Brush Creek of Roundstone Creek *	**Wolf Creek to Reemergence of Sinking Creek**	**1.1-7.6**	**Rockcastle**
Brushy Creek of Buck Creek*	**Mouth to Headwaters**	**0.0-16.5**	**Pulaski**
Buck Creek of Cumberland River*	**0.8 river mile upstream of confluence of Hurricane Creek to Lake Cumberland Backwaters**	**11.7-55.0**	**Lincoln, Pulaski**
Bunches Creek of Cumberland River*	**Mouth to confluence of Amos Falls Branch and Seminary Branch**	**0.0-3.3**	**Whitley**
Cane Creek of Rockcastle River*	**Mouth to Headwaters**	**0.0-11.85**	**Laurel**
Clifty Creek of Brushy Creek of Buck Creek	**Mouth to Rocky Branch**	**0.0-2.7**	**Pulaski**
Cogur Fork of Indian Creek*	**Mouth to Headwaters**	**0.0-7.95**	**McCreary**
Cumberland River	**Wild River Boundaries**	**549.65-566.1**	**McCreary,**

			Whitley
Dog Slaughter Creek of Cumberland River*	Mouth to confluence of North Fork and South Fork of Dog Slaughter Creek	0.05-1.15	Whitley
Eagle Creek of Cumberland River*	Mouth to Headwaters	0.05-6.75	McCreary
Fugitt Creek of Clover Fork of Cumberland River*	Landuse Change to Headwaters	0.5-4.6	Harlan
Horse Lick Creek of Rockcastle River*	Mouth to Clover Bottom	0.0-12.3	Jackson, Rockcastle
Howards Creek of Illwill Creek of Wolf River*	Dale Hollow Reservoir Backwaters to Headwaters	0.6-4.6	Clinton
Indian Creek of Cumberland River*	Laurel Fork to Barren Fork	2.4-6.8	McCreary
Jackie Branch of Bark Camp Creek*	Mouth to Headwaters	0.0-1.65	Whitley
Kilburn Fork of Indian Creek	Mouth to Headwaters	0.0-7.2	McCreary
Laurel Creek of Marsh Creek	Mouth to Laurel Creek Dam	0.0-9.0	McCreary
Laurel Fork of Clear Fork of Cumberland River*	Tennessee State Line to Tiny Branch	4.3-13.1	Whitley
Laurel Fork of Middle Fork of Rockcastle River*	Mouth to Headwaters	0.0-12.3	Jackson
Left Fork of Fugitt Creek of Clover Fork of Cumberland River	Mouth to Headwaters	0.0-1.5	Harlan
Little South Fork of Cumberland River*	Lake Cumberland Backwaters to Langham Branch	4.4-35.5	McCreary, Wayne
Marsh Creek of Cumberland River*	Laurel Creek to Kentucky/Tennessee State Line	8.8-26.5	McCreary
Martins Fork of Cumberland River	Rough Branch to Headwaters	27.2-32.7	Harlan
McFarland Creek of Cumberland River	Little McFarland Creek to Spring Branch	0.8-6.2	Monroe
Meshack Creek of Cumberland River	Mouth to Pitcock Branch	0.0-2.8	Monroe
Middle Fork of Rockcastle River*	Mouth to confluence of Indian Creek and Laurel Fork	0.0-7.9	Jackson
Mud Camp Creek of Cumberland River*	Mouth to Collins Branch	0.0-1.2	Cumberland
Mud Camp Creek of	Unidentified Tributary to	3.8-8.8	Cumberland,

Cumberland River*	Headwaters		Monroe
Otter Creek of Cumberland River	Lake Cumberland Backwaters to Carpenter Fork	14.0-22.1	Wayne
Poor Fork of Cumberland River*	Franks Creek to Headwaters	42.1-52.4	Letcher
Presley House Branch of Poor Fork of Cumberland River*	Mouth to Headwaters	0.0-1.5	Letcher
Puncheoncamp Branch of Rock Creek of South Fork of Cumberland River*	Mouth to Headwaters	0.0-1.85	McCreary
Rock Creek of South Fork of Cumberland River*	White Oak Creek to Tennessee State Line	4.0-21.5	McCreary
Rockcastle River	Wild River Boundaries	8.95-54.7	Laurel, Pulaski
Shillalah Creek of Clear Fork of Yellow Creek*	Mouth to Headwaters	0.0-5.5	Bell
Sinking Creek of Rockcastle River*	Mouth to White Oak Creek	0.0-9.9	Laurel
Sulphur Creek of Wolf River of Obey River*	Dale Hollow Reservoir Backwaters to Headwaters	1.7-5.1	Clinton
South Fork of Dog Slaughter Creek of Cumberland River*	Mouth to Headwaters	0.0-4.6	Whitley
South Fork of Rockcastle River	Mouth to White Oak Creek	0.0-5.8	Laurel
Unidentified Tributary (across from Hemlock Grove) of Rock Creek of South Fork of Cumberland River*	Mouth to Headwaters	0.0-1.3	McCreary
Unidentified Tributary (RMI 17.0 of Rock Creek) of Rock Creek of South Fork of Cumberland River*	Mouth to Headwaters	0.0-1.2	McCreary
Watts Branch of Rock Creek of South Fork of Cumberland River*	Mouth to Headwaters	0.0-2.6	McCreary
Watts Creek of Cumberland River*	Camp Blanton Reservoir to Headwaters	2.4-4.4	Harlan

Delete the existing Table 2 in its entirety, from line 15 on page 4 through page 31.

Page 48
Section 1(2)(a)3.a.
Line 10

After "included in", delete the opening quotation mark.
After "(KIBI)", delete the closing quotation mark.

Page 55
Section 1(4)(a)
Line 10

After “to 33 U.S.C. 1315”, delete the following:

or designated pursuant to 10:26, Section 1 with a use of Modified Warm Water Aquatic Habitat

Page 56
Section 2(2)(a)
Lines 13 and 14

After "of this section", insert a period.
Delete the semicolon.

Page 57
Section 2(3)(b)
Line 3

After “Clean Water Act”, insert “, 33 U.S.C. 1313”.

Page 59
Section 2(2)
Line 12

After “Division of Water,”, insert “200 Fair Oaks Lane”.
Delete “14 Reilly Road”.

401 KAR 10:031. Surface water standards. Comments were considered and the following changes are suggested:

Page 1
RELATES TO
Line 8

After "224.73-100 - 224.73-120", insert ", EO 2008-507, 2008-531".

Page 1
NECESSITY, FUNCTION, AND CONFORMITY
Line 13

At the beginning of the line, delete “Environmental and Public Protection”.

Line 15

After "of water pollution.", insert the following:

EO 2008-507 and 2008-531, effective June 16, 2008, abolish the Environmental and Public Protection Cabinet and establish the new Energy and Environment Cabinet.

Page 2
NECESSITY, FUNCTION, AND CONFORMITY
Line 2

After "40 C.F.R.", delete "Part".

Page 2
Section 2(1)(d)
Line 18

After "humans, animals,", insert "or".

Page 2
Section 2(1)(f)
Line 20

After "(f)", insert "1.".

After "flesh tainting.", insert the following:

2. The concentration of phenol shall not exceed 300 µg/l as an instream value.

Page 5
Section 4(1)(d)2.
Lines 14 and 15

After "the aquatic biota", insert "that".

Delete "which".

Page 6
Section 4(1)(d)3.
Line 3

After "Clean Water Act", insert ", 33 U.S.C. 1326,".

Page 7
Section 4(1)(h)
Line 14

After "productive aquatic communities", insert "shall be".

Delete "is".

Page 9
Section 4(3)
Line 19

Delete subsection (3) in its entirety, from "(3)" to "shall be maintained."

Page 10

Section 5
Line 2

After "point of withdrawal", insert the following:

, as established in 401 KAR 10:026, Section 5(2)(b), Table B,

Page 12
Section 6, Table 1
For the pollutant Chloride (in column 1)

In column 5, Water Quality Criteria for Warm Water Aquatic Habitat, Acute Value, insert "1,200,000", delete "860,000".

In column 6, Water Quality Criteria for Warm Water Aquatic Habitat, Chronic Value, insert "600,000", delete "230,000".

Page 16
Section 6, Table 1
For the pollutant Nonylphenol (in column 1)

In column 2, CAS Number, insert "1044051".

Page 30
Section 6(2)
Line 12

After "shall apply for", insert "Domestic".
Delete "Drinking".

Page 31
Section 6(2)(a)
Line 2

After "uranium,", insert "shall not".
Delete "to".

Page 31
Section 6(2)(b)
Line 3

After "and radium-228", insert "shall not".
Delete "to".

Page 31
Section 6(2)(c)
Line 6

After "particle activity", insert "shall not".
Delete "to".

Page 31
Section 6(2)(d)
Line 7

After "concentration of tritium", insert "shall not".
Delete "to".

Page 31
Section 6(2)(e)
Line 8

After "total Strontium-90", insert "shall not".
Delete "to".

Page 31
Section 6(2)(f)
Line 9

After "concentration of uranium", insert "shall not".
Delete "to".

Page 33
Section 8(1)(b)2.
Line 6

After "characteristic", insert a comma.
Delete the semicolon.

Page 34
Section 9
Line 21

After "of the Ohio River.", insert the following:

(1) The following criteria apply to the main stem of the Ohio River from its juncture with the Big Sandy River at River Mile 317.1 to its confluence with the Mississippi River, and shall not be exceeded.

(2) These waters shall be subject to all applicable provisions of 40 KAR 10:001, 10:026, 10:029, 10:030, and this administrative regulation, except for those criteria in paragraphs (a) and (b) of this subsection.

(a) Dissolved oxygen. Concentrations shall average at least five and zero-tenths (5.0) mg/l per calendar day and shall not be less than four and zero-tenths (4.0) mg/l except during the April 15 – June 15 spawning season when a minimum of five and one-tenth (5.1) mg/l shall be maintained.

(b) Maximum allowable instream concentrations for nitrite-nitrogen for the protection of human health shall be one and zero-tenths (1.0) mg/l and shall be met at the edge of the assigned mixing zone.

Delete the following:

Requirements and limits shall apply as contained in the Ohio River Valley Water Sanitation Commission's Pollution Control Standards for Discharges to the Ohio River, 2006 Revision.

Page 39
Section 10(3)
Line 8

After "ephemeral, intermittent", insert a comma.

Page 39
Section 11(1)
Lines 18 and 19

After "by the discharger,", delete the following:

following the guidelines in Interim Economic Guidance for Water Quality Standards Workbook, EPA March 1995

Line 21

After "existing instream criteria", insert the following:

cannot be attained because of factors specified in 401 KAR 10:026 Section 2(4)(a) through (f).

Delete the following:

shall result in substantial and widespread adverse economic and social impacts.

Page 40
Section 12(1)(c)
Line 19

Delete the following:

(c) Ohio River Valley Water Sanitation Commission's "Pollution Control Standards for Discharges to the Ohio River", 2006 Revision.

Page 40
Section 12(2)
Line 22

After "Division of Water,", insert "200 Fair Oaks Lane".

Delete "14 Reilly Road".